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(25,841)

20792

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1917.

No. 416.

THE ILLINOIS CENTRAL RAILROAD COMPANY, APPELLANT,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, EDWARD J. BRUNDAGE, ATTORNEY GENERAL, ET AL.

FILED FEBRUARY 24, 1917.

No. 448

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, EDWARD J. BRUNDAGE, ATTORNEY GENERAL, ET AL., APPELLANTS,

vs.

THE UNITED STATES, INTERSTATE COMMERCE COMMISSION, ILLINOIS CENTRAL RAILROAD COMPANY, ET AL.

FILED MARCH 20, 1917.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

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1 In the District Court of the United States for the Northern District of Illinois, Eastern Division.

No. 752.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

SAME.

No. 754.

CHICAGO & ALTON RAILROAD COMPANY

vs.

SAME.

No. 755.

CHICAGO GREAT WESTERN RAILROAD COMPANY

vs.

SAME.

No. 756.

MICHIGAN CENTRAL RAILROAD COMPANY

vs.

SAME.

No. 757.

CHICAGO & ILLINOIS MIDLAND RAILWAY

vs.

SAME.

No. 758.

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY

vs.

SAME.

No. 759.

WM. J. JACKSON, Receiver Chicago & Eastern Illinois Railroad,

VS.

SAME.

2 No. 760.

JACOB M. DICKINSON, Receiver Chicago, Rock Island & Pacific Railway Company,

VS.

SAME.

No. 761.

WALTER L. ROSS, Receiver Toledo, St. Louis & Western Railroad Company,

VS.

SAME.

No. 762.

CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY

VS.

SAME.

No. 763.

LAKE ERIE & WESTERN RAILROAD COMPANY

VS.

SAME.

No. 764.

NEW YORK CENTRAL RAILROAD COMPANY

VS.

SAME.

No. 765.

BLUFORD WILSON and WM. COTTER, Receivers Chicago, Peoria & St. Louis Railroad Company,

VS.

SAME.

No. 766.

WABASH RAILWAY COMPANY

vs.

SAME.

No. 767.

MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE RAILWAY COMPANY

vs.

SAME.

No. 768.

B. F. BUSH, Receiver St. Louis, Iron Mountain & Southern Railway Company, et al.

vs.

SAME.

No. 769.

MINNEAPOLIS & ST. LOUIS RAILROAD COMPANY

vs.

SAME.

3 No. 770.

TOLEDO, PEORIA & WESTERN RAILWAY COMPANY

vs.

SAME.

No. 771.

CINCINNATI, INDIANAPOLIS & WESTERN RAILROAD COMPANY

vs.

SAME.

No. 772.

LOUISVILLE & NASHVILLE RAILROAD COMPANY

vs.

SAME.

No. 773.

MOBILE & OHIO RAILROAD COMPANY

vs.

SAME.

No. 774.

SOUTHERN RAILWAY COMPANY

vs.

SAME.

No. 775.

BALTIMORE & OHIO SOUTHWESTERN RAILROAD COMPANY

vs.

SAME.

No. 776.

THE PITTSBURGH, CINCINNATI, CHICAGO & ST. LOUIS RAILROAD COMPANY

vs.

SAME.

No. 777.

ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY

vs.

SAME.

No. 782.

ROCK ISLAND SOUTHERN RAILWAY COMPANY

vs.

SAME.

No. 786.

ILLINOIS SOUTHERN RAILWAY COMPANY

vs.

SAME.

No. 801.

CHICAGO & NORTH WESTERN RAILWAY COMPANY

vs.

SAME.

4 Mr. W. S. Horton, Mr. A. P. Humburg, Mr. J. G. Drennan, Messrs. Calhoun, Lyford & Sheean, Mr. V. W. Foster, Solicitors for Complainant, Illinois Central Railroad Company, in cause No. 753.

Mr. R. B. Scott, Solicitor for Complainant, Chicago, Burlington & Quincy Railroad Company, in cause No. 752.

Mr. Silas H. Strawn, Solicitor for Chicago & Alton Railroad Company, Complainant in cause No. 754.

Mr. John Barton Payne, Solicitor for Complainant, Chicago Great Western Railroad Company, in cause No. 755.

Messrs. Winston, Payne, Strawn & Shaw, Solicitors for Complainant, Michigan Central Railroad Company, in cause No. 756.

Messrs. Winston, Payne, Strawn & Shaw, Solicitors for Complainant, Chicago & Illinois Midland Railway, in cause No. 757.

Mr. O. W. Dynes, Solicitor for Complainant, Milwaukee & St. Paul Railway Company, in cause No. 758.

Mr. Homer T. Dick and Mr. Clarence B. Cardy, Solicitors for Complainant, Wm. J. Jackson, Receiver, Chicago & Eastern Illinois Railroad, in cause No. 759.

5 Mr. M. L. Bell, Mr. W. F. Dickinson and Mr. A. B. Enoch, Solicitors for Complainant, Jacob M. Dickinson, Receiver, Chicago, Rock Island & Pacific Railway Company, in cause No. 760.

Mr. Clarence Brown, Solicitor for Complainant, Walter L. Ross, Receiver, Toledo, St. Louis & Western Railroad Company, in cause No. 761.

Mr. E. T. Glennon, Mr. Robert J. Cary, Mr. Bertrand Walker, Solicitors for Complainant, Cleveland, Cincinnati, Chicago & St. Louis Railway Company, in cause No. 762.

Mr. E. T. Glennon, Mr. Robert J. Cary, Mr. Bertrand Walker, Solicitors for Complainant, Lake Erie & Western Railroad Company, in cause No. 763.

Mr. E. T. Glennon, Mr. Robert J. Cary, Mr. Bertrand Walker, Solicitors for Complainant, New York Central Railroad Company, in cause No. 764.

Mr. P. B. Warren, Solicitor for Bluford Wilson & Wm. Cotter, Receivers, Chicago, Peoria & St. Louis Railroad Company, in cause No. 765.

Mr. J. L. Minnis, Mr. N. S. Brown, Mr. John Gibson Hale, Solicitors for Wabash Railway Company, Complainant in cause No. 766.

6 Mr. A. H. Bright, Mr. W. B. Tyrrell, Mr. A. H. Lossow, Mr. John L. McInery, Solicitors for Complainant, Minneapolis, St. Paul & Sault Ste. Marie Railway Company, in cause No. 767.

Mr. H. G. Herbel, Mr. Fred G. Wright, Solicitors for Complainant, B. F. Bush, Receiver, St. Louis, Iron Mountain & Southern Railway Company, et al., in cause No. 768.

Mr. Shirley T. High, Mr. W. H. Bremmer, Solicitors for Complainant, Minneapolis & St. Louis Railway Company, in cause No. 769.

Messrs. Stevens, Miller & Elliott, Mr. J. M. Elliott, Solicitors for Complainant, Toledo, Peoria & Western Railway Company, in cause No. 770.

Mr. J. G. Moore, Solicitor for Complainant, Cincinnati, Indianapolis & Western Railroad Company, in cause No. 771.

Mr. J. M. Hammil, Mr. E. D. Mohr, Solicitors for Louisville & Nashville Railroad Company, Complainant in cause No. 772.

Mr. E. C. Kramer, Solicitor for Mobile & Ohio Railroad Company, Complainant in cause No. 773.

7 Mr. E. C. Kramer, Solicitor for Complainant, Southern Railway Company, in cause No. 774.

Mr. E. C. Kramer, Solicitor for Complainant, Baltimore & Ohio Southwestern Railroad Company, in cause No. 775.

Messrs. Loesch, Scoville, Loesch & Richards, Solicitors for Complainant, The Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company, in cause No. 776.

Mr. Robert Dunlap, Mr. T. J. Norton, Mr. S. T. Bledsoe, Solicitors for Complainant, Atchison, Topeka & Santa Fe Railway Company, in cause No. 777.

Mr. R. B. Scott, Solicitor for Complainant, Rock Island Southern Railway Company, in cause No. 782.

Mr. E. C. Kramer, Solicitor for Complainant, Illinois Southern Railway Company, in cause No. 786.

Mr. C. C. Wright, Mr. Robert H. Widdecomb, Solicitors for Complainant, Chicago and North Western Railway Company, in cause No. 801.

8 Mr. Edward J. Brundage, Attorney General; Mr. James H. Wilkerson, Solicitors for Defendants in each case, except United States and Interstate Commerce Commission.

Mr. Blackburn Esterline, Special Assistant to the Attorney General, for United States.

Mr. Joseph W. Folk, Solicitor for Interstate Commerce Commission.

9 Pleas in the District Court of the United States for the Northern District of Illinois, Eastern Division, in Chancery sitting, at the United States Court-room, in the City of Chicago, in said District and Division, before the Honorable Kenesaw M. Landis, District Judge of the United States for the Northern District of Illinois, on Saturday, the thirteenth day of January, 1917, being one of the days of the December Term of said Court, begun Monday, the eighteenth day thereof, in the year of our Lord one thousand nine hundred and sixteen, and of the Independence of the United States of America the one hundred and forty-first year.

Present: Honorable Kenesaw M. Landis, District Judge; John J. Bradley, United States Marshal for said district, and T. C. MacMillan, clerk of said court.

10 Pleas in the District Court of the United States for the Northern District of Illinois, Eastern Division, in Chancery sitting, at the United States Court-room, in the City of Chicago, in said District and Division, before the Hon. Evan A. Evans, Judge of the United States Circuit Court of Appeals for the Seventh Circuit, Hon. Kenesaw M. Landis, Hon. George A. Carpenter, District Judges of the United States for the Northern District of Illinois, on Saturday, the sixth day of January, 1917, being one of the days of the December Term of said Court, begun Monday, the eighteenth day thereof, in the year of our Lord one thousand nine hundred and sixteen, and of the Independence of the United States of America, the one hundred and forty-first year.

Present: Honorable Evan A. Evans, Circuit Judge; Honorable Kenesaw M. Landis, District Judge; Honorable George A. Carpenter, District Judge; John J. Bradley, United States Marshal for said district, and T. C. MacMillan, clerk of said court.

11 In the District Court of the United States for the Northern District of Illinois, Eastern Division.

No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Defendants.

Be it remembered, That heretofore, to-wit: on the twentieth day of November, 1916, came the Plaintiff in the above entitled cause by its solicitors, and filed in the Clerk's office of said Court, its certain Bill of Complaint in the words and figures following to-wit:

12 In the District Court of the United States for the Northern District of Illinois, Eastern Division.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff,

v.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS and WILLIAM L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw, and Frank H. Funk, as Members of and Constituting the State Public Utilities Commission of Illinois; Patrick J. Lucey, Attorney General of Illinois; Maclay Hoyne, State's Attorney of Cook County, Illinois, and Charles W. Hadley, State's Attorney of Du Page County, Illinois, and William J. Tyers, State's Attorney of Kane County, Illinois, and George S. Wiley, State's Attorney of La Salle County, Illinois, and Lowell B. Smith, State's Attorney of De Kalb County, Illinois, and Robert W. Martin, State's Attorney of Will County, Illinois, and Harry Edwards, State's Attorney of Lee County, Illinois, and William J. Emerson, State's Attorney of Ogle County, Illinois, and Patrick H. O'Donnell, State's Attorney of Boone County, Illinois, and William Johnson, State's Attorney of Winnebago County, Illinois, and Frank T. Sheean, State's Attorney of Jo Daviess County, Illinois; Albert H. Manus, State's Attorney of Stephenson County, Illinois, and C. E. McNemar, State's Attorney of Peoria County, Illinois, and F. A. Ortman, State's Attorney of Livingston County, Illinois, and Henry E. Jacobs, State's Attorney of Marshall County, Illinois, and E. E. Black, State's Attorney of Tazewell County, Illinois, and Ernst J. Henderson, State's Attorney of Woodford County, Illinois, and Miles K. Young, State's Attorney of McLean County, Illinois, and James M. Bandy, State's Attorney of Madison County, Illinois, and J. Earl Major, State's Attorney of Montgomery County, Illinois, and Edmund P. Nischwitz, State's Attorney of Mason County, Illinois, and Harry B. Hershey, State's Attorney of Christian County, Illinois, and Louis O. Williams, State's Attorney of De Witt County, Illinois, and C. E. Smith, State's Attorney of Logan County, Illinois, and Jesse L. Deck, State's Attorney of Macon County, Illinois, and Edmund Burke, State's Attorney of Sangamon County, Illinois, and James Murphy, State's Attorney of Macoupin County, Illinois, and Thomas S. Williams, State's Attorney of Clay County, Illinois, and Alexander Wilson, State's Attorney of Alexander County, Illinois, and S. N. Finn, State's Attorney of Marion County, Illinois, and Louis A. Busch, State's Attorney of Champaign County, Illinois, and W. F. Spiller, State's Attorney of Franklin County, Illinois, and D. T. Hartwell, State's Attorney of Williamson County, Illinois, and H. A. Spann, State's Attorney of Johnson County, Illinois, and Fred R. Young, State's Attorney of Massac County, Illinois, and Charles Webb, State's Attorney of St. Clair County, Illinois, and Robert Hammond, State's Attorney of Coles County, Illinois, and Joseph B.

Crowley, State's Attorney of Crawford County, Illinois,
13 and Walter Brewer, State's Attorney of Cumberland County, Illinois, and W. Thomas Coleman, State's Attorney of Douglas County, Illinois, and Edward A. Schroeder, State's Attorney of Edwards County, Illinois, and Byron Piper, State's Attorney of Effingham County, Illinois, and J. G. Burnside, State's Attorney of Fayette County, Illinois, and Oscar H. Wylie, State's Attorney of Ford County, Illinois, and James W. Kern, State's Attorney of Iroquois County, Illinois, and W. A. Swartz, State's Attorney of Jackson County, Illinois, and Charles D. Fithbian, State's Attorney of Jasper County, Illinois, and Wayne T. Dyer, State's Attorney of Kankakee County, Illinois, and J. K. Martin, State's Attorney of Moultrie County, Illinois, and S. A. Warden, State's Attorney of Perry County, Illinois, and Thomas J. Kastel, State's Attorney of Piatt County, Illinois, and John W. Browning, State's Attorney of Pope County, Illinois, and C. S. Miller, State's Attorney of Pulaski County, Illinois, and Alfred D. Riess, State's Attorney of Randolph County, Illinois, and H. G. Morris, State's Attorney of Richland County, Illinois, and Sam Thompson, State's Attorney of Saline County, Illinois, and W. E. Lowe, State's Attorney of Shelby County, Illinois, and William D. Lyerle, State's Attorney of Union County, Illinois, and John H. Lewman, State's Attorney of Vermilion County, Illinois, and J. Paul Carter, State's Attorney of Washington County, Illinois, and Joe A. Pearce, State's Attorney of White County, Illinois, Defendants.

Bill of Complaint.

To the Judges of the District Court of the United States in and for the Northern District of Illinois, Eastern Division:

The plaintiff, Illinois Central Railroad Company, presents its bill of complaint against the defendants, State Public Utilities Commission of Illinois, and William L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw, and Frank H. Funk, members of and constituting the State Public Utilities Commission of Illinois, and Patrick Lucey, Attorney General of Illinois, and Maclay Hoyne, State's Attorney of Cook County, Illinois, and Charles W. Hadley, State's Attorney of Du Page County, Illinois, and Wm. J. Tyers, State's Attorney of Kane County, Illinois, and George S. Wiley, State's Attorney of La Salle County, Illinois, and Lowell B. Smith, State's Attorney of De Kalb County, Illinois, and Robert W. Martin, State's Attorney of Will County, Illinois, and Harry Edwards,
14 State's Attorney of Lee County, Illinois, and William J. Emerson, State's Attorney of Ogle County, Illinois, and Patrick H. O'Donnell, State's Attorney of Boone County, Illinois, and William Johnson, State's Attorney of Winnebago County, Illinois, and Frank T. Sheean, State's Attorney of Jo Daviess County, Illinois, and Albert H. McManus, State's Attorney of Stephenson County, Illinois, and C. E. McNemar, State's Attorney of Peoria County, Illinois, and F. A. Ortman, State's Attorney of Livingston County, Illinois, and

Henry E. Jacobs, State's Attorney of Marshall County, Illinois, and E. E. Black, State's Attorney of Tazewell County, Illinois, and Ernest J. Henderson, State's Attorney of Woodford County, Illinois, and Miles K. Young, State's Attorney of McLean County, Illinois, and James M. Bandy, State's Attorney of Madison County, Illinois, and J. Earl Major, State's Attorney of Montgomery County, Illinois, and Edmund P. Nischwitz, State's Attorney of Mason County, Illinois, and Harry B. Hershey, State's Attorney of Christian County, Illinois, and Louis O. Williams, State's Attorney of De Witt County, Illinois, and C. E. Smith, State's Attorney of Logan County, Illinois, and Jesse L. Deck, State's Attorney of Macon County, Illinois, and Edmund Burke, State's Attorney of Sangamon County, Illinois, and James Murphy, State's Attorney of Macoupin County, Illinois, and Thomas S. Williams, State's Attorney of Clay County, Illinois, and Alexander Wilson, State's Attorney of Alexander County, Illinois, and S. N. Finn, State's Attorney of Marion County, Illinois, and Louis A. Busch, State'- Attorney of Champaign County, Illinois, and W. F. Spiller, State's Attorney of Franklin County, Illinois, and D. T. Hartwell, State's Attorney of Williamson County, Illinois, and H. A. Spann, State's Attorney of Johnson County, Illinois, and Fred R. Young, State's Attorney of Massac County, Illinois, and Charles Webb, State's Attorney of St. Clair County, Illinois, and Robert Hammond, State's Attorney of Coles County, Illinois, and Joseph B. Crowley, State's Attorney of Crawford County, Illinois, and Walter Brewer, State's Attorney of Cumberland County, Illinois, and W. Thomas Coleman, State's Attorney of Douglas County, Illinois, and Edward A. Schroeder, State's Attorney of Edwards County, Illinois, and Byron Piper, State's Attorney of Effingham County, Illinois, and J. G. Burnside, State's Attorney of Fayette County, Illinois, and Oscar H. Wylie, State's Attorney of Ford County, Illinois, and James W. Kern, State's Attorney of Iroquois County, Illinois, and W. A. Swartz, State's Attorney of Jackson County, Illinois, and Charles D. Fithian, State's Attorney of Jasper County, Illinois, and Wayne T. Dyer, State's Attorney of Kankakee County, Illinois, and J. K. Martin, State's Attorney of Moultrie County, Illinois, and S. A. Warden, State's Attorney of Perry County, Illinois, and Thomas J. Kastel, State's Attorney of Piatt County, Illinois, and John W. Browning, State's Attorney of Pope County, Illinois, and C. S. Miller, State's Attorney of Pulaski County, Illinois, and Alfred D. Riess, State's Attorney of Randolph County, Illinois, and H. G. Morris, State's Attorney of Richland County, Illinois, and Sam Thompson, State's Attorney of Saline County, Illinois, and W. E. Lowe, State's Attorney of Shelby County, Illinois, and William D. Lyerle, State's Attorney of Union County, Illinois, and John H. Lewman, State's Attorney of Vermilion County, Illinois, and J. Paul Carter, State's Attorney of Washington County, Illinois, and Joe A. Pearce, State's Attorney of White County, Illinois, and for cause of action says:

First. The plaintiff, Illinois Central Railroad Company, is a corporation duly organized and existing under and by virtue of the laws of the State of Illinois, and has been for many years past, and is now,

engaged in operating a railroad into and through the States of Illinois, Iowa, Missouri and other States, and has been, and is, engaged as a common carrier in the transportation of passengers by
16 rail from Chicago and other points in Illinois to and through the counties of Cook, Du Page, Kane, La Salle, De Kalb, Will, Boone, Winnebago, Jo Daviess, Lee, Ogle, Stephenson, Livingston, Marshall, Peoria, Tazewell, Woodford, Christian, De Witt, Logan Macon, Macoupin, Madison, Mason, McLean, Montgomery, Sangamon, Alexander, Champaign, Clay, Coles, Crawford, Cumberland, Douglas, Edwards, Effingham, Fayette, Ford, Franklin, Iroquois, Jackson, Jasper, Johnson, Kankakee, Marion, Massac, Moultrie, Perry, Piatt, Pope, Pulaski, Randolph, Richland, Saline Shelby, St. Clair, Union, Vermilion, Washington, White and Williamson, in the State of Illinois, and to points in Iowa, Missouri and other States, and that said Railroad Company has its principal place of business in the City of Chicago, in the State of Illinois, and is and was at the times hereinafter mentioned, a common carrier of passengers by railroad, subject to the provisions of the Act of Congress of February 4, 1887, entitled "An Act to Regulate Commerce, as Amended."

The State Public Utilities Commission of Illinois was created and exists under and by virtue of a law of the State of Illinois entitled "An Act to Provide for the Regulation of Public Utilities," approved June 30, 1913, effective January 1, 1914, and said Commission is thereby empowered to enforce the provisions of said act as hereinafter set forth, and has an office in the State Capitol at Springfield, in the Southern District of Illinois, Southern Division, and also an office in the City of Chicago, in the Northern District of Illinois, Eastern Division, and is constituted as hereinafter set forth.

The defendant, William L. O'Connell, is a citizen of the State of Illinois, and a resident of Chicago, in the Northern District of Illinois, Eastern Division.

The defendant, Owen P. Thompson, is a citizen of the State of Illinois, and a resident of Jacksonville, in the Southern District of Illinois, Southern Division.

The defendant, Walter A. Shaw, is a citizen of the State of
17 Illinois, and a resident of Chicago, in the Northern District of Illinois, Eastern Division.

The defendant, Richard Yates, is a citizen of the State of Illinois, and a resident of Springfield, in the Southern District of Illinois, Southern Division.

The defendant, Frank H. Funk, is a citizen of the State of Illinois, and a resident of Bloomington, in the Southern District of Illinois, Southern Division.

The said defendants are the duly appointed, qualified and acting members of the State Public Utilities Commission of Illinois, created and existing under and by virtue of the laws of the State of Illinois entitled "An Act to provide for the regulation of Public Utilities, approved June 30, 1913, in force January 1, 1914."

The defendant, Patrick J. Lucey, is a citizen of the State of Illinois, and a resident of Streator, in the Northern District of

Illinois, Eastern Division, and is the duly elected, qualified and acting Attorney General of the State of Illinois.

The defendant, Maclay Hoyne, is a citizen of the State of Illinois, and a resident of Chicago, in the Northern District of Illinois, Eastern Division, and is the duly elected, qualified and acting State's Attorney of the County of Cook, in the State of Illinois.

The defendant, Charles W. Hadley, is a citizen of the State of Illinois, and a resident of Wheaton, in the Northern District of Illinois, Eastern Division, and is the duly elected, qualified and acting State's Attorney of the County of Du Page, in the State of Illinois.

The defendant, Wm. J. Tyers, is a citizen of the State of Illinois, and a resident of Geneva, in the Northern District of Illinois, Eastern Division, and is the duly elected, qualified and acting State's Attorney of the County of Kane, in the State of Illinois.

18 The defendant, Geo. S. Wiley, is a citizen of the State of Illinois, and a resident of Ottawa, in the Northern District of Illinois, Eastern Division, and is the duly elected, qualified and acting State's Attorney of the County of La Salle, in the State of Illinois.

The defendant, Lowell B. Smith, is a citizen of the State of Illinois, and a resident of Sycamore, in the Northern District of Illinois, Eastern Division, and is the duly elected, qualified and acting State's Attorney of the County of De Kalb, in the State of Illinois.

The defendant, Robert W. Martin, is a citizen of the State of Illinois, and a resident of Joliet in the Northern District of Illinois, Eastern Division, and is the duly elected, qualified and acting State's Attorney of the County of Will, in the State of Illinois.

The defendant, Harry Edwards, is a citizen of the State of Illinois, and a resident of Dixon, in the Northern District of Illinois, Western Division, and is the duly elected, qualified and acting State's Attorney of the County of Lee, in the State of Illinois.

The defendant, William J. Emerson, is a citizen of the State of Illinois, and a resident of Oregon, in the Northern District of Illinois, Western Division, and is the duly elected, qualified and acting State's Attorney of the County of Ogle, in the State of Illinois.

The defendant, Patrick H. O'Donnell, is a citizen of the State of Illinois, and a resident of Belvidere, in the Northern District of Illinois, Western Division, and is the duly elected, qualified and acting State's Attorney of the County of Boone, in the State of Illinois.

The defendant, William Johnson, is a citizen of the State of Illinois, and a resident of Rockford, in the Northern District of Illinois, Western Division, and is the duly elected, qualified

19 and acting State's Attorney of the County of Winnebago, in the State of Illinois.

The defendant, Frank T. Sheean, is a citizen of the State of Illinois, and a resident of Galena, in the Northern District of Illinois, Western Division, and is the duly elected, qualified and acting State's Attorney of the County of Jo Daviess, in the State of Illinois.

The defendant, Albert H. Manus, is a citizen of the State of

Illinois, and a resident of Freeport, in the Northern District of Illinois, Western Division, and is the duly elected, qualified and acting State's Attorney of the County of Stephenson, in the State of Illinois.

The defendant, C. E. McNemar, is a citizen of the State of Illinois, and a resident of Peoria, in the Southern District of Illinois, Northern Division, and is the duly elected, qualified and acting State's Attorney of the County of Peoria, in the State of Illinois.

The defendant, F. A. Ortman, is a citizen of the State of Illinois, and a resident of Pontiac, in the Southern District of Illinois, Northern Division, and is the duly elected, qualified and acting State's Attorney of the County of Livingston, in the State of Illinois.

The defendant, Henry E. Jacobs, is a citizen of the State of Illinois, and a resident of Henry, in the Southern District of Illinois, Northern Division, and is the duly elected, qualified and acting State's Attorney of the County of Marshall, in the State of Illinois.

The defendant, E. E. Black, is a citizen of the State of Illinois, and a resident of Pekin, in the Southern District of Illinois, Northern Division, and is the duly elected, qualified and acting State's Attorney of the County of Tazewell, in the State of Illinois.

The defendant, Ernst J. Henderson, is a citizen of the State
20 of Illinois, and a resident of Minonk, in the Southern District of Illinois, Northern Division, and is the duly elected, qualified and acting State's Attorney of the County of Woodford, in the State of Illinois.

The defendant, Miles K. Young, is a citizen of the State of Illinois, and a resident of Bloomington, in the Southern District of Illinois, Southern Division, and is the duly elected, qualified and acting State's Attorney of the County of McLean, in the State of Illinois.

The defendant, James M. Brandy, is a citizen of the State of Illinois, and a resident of Edwardsville, in the Southern District of Illinois, Southern Division, and is the duly elected, qualified and acting State's Attorney of the County of Madison, in the State of Illinois.

The defendant, J. Earl Major, is a citizen of the State of Illinois, and a resident of Hillsboro, in the Southern District of Illinois, Southern Division, and is the duly elected, qualified and acting State's Attorney of the County of Montgomery, in the State of Illinois.

The defendant, Edmund P. Nischwitz, is a citizen of the State of Illinois, and a resident of Havana, in the Southern District of Illinois, Southern Division, and is the duly elected, qualified and acting State's Attorney of the County of Mason, in the State of Illinois.

The defendant, Harry B. Hershey, is a citizen of the State of Illinois, and a resident of Taylorville, in the Southern District of Illinois, Southern Division, and is the duly elected, qualified and acting State's Attorney of the County of Christian, in the State of Illinois.

The defendant, Louis O. Williams, is a citizen of the State of

Illinois, and a resident of Clinton, in the Southern District of Illinois, Southern Division, and is the duly elected, qualified
21 and acting State's Attorney of the County of De Witt, in the State of Illinois.

The defendant, C. E. Smith, is a citizen of the State of Illinois, and a resident of Lincoln, in the Southern District of Illinois, Southern Division, and is the duly elected, qualified and acting State's Attorney of the County of Logan, in the State of Illinois.

The defendant, Jesse L. Deck, is a citizen of the State of Illinois, and a resident of Decatur, in the Southern District of Illinois, Southern Division, and is the duly elected, qualified and acting State's Attorney of the County of Macon, in the State of Illinois.

The defendant, Edmund Burke, is a citizen of the State of Illinois, and a resident of Springfield, in the Southern District of Illinois, Southern Division, and is the duly elected, qualified and acting State's Attorney of the County of Sangamon, in the State of Illinois.

The defendant, James Murphy, is a citizen of the State of Illinois, and a resident of Carlinville, in the Southern District of Illinois, Southern Division, and is the duly elected, qualified and acting State's Attorney in the County of Macoupin, in the State of Illinois.

The defendant, Thomas S. Williams, is a citizen of the State of Illinois, and a resident of Louisville, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Clay, in the State of Illinois.

The defendant, Alexander Wilson, is a citizen of the State of Illinois, and a resident of Cairo, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Alexander, in the State of Illinois.

The defendant, S. N. Finn, is a citizen of the State of Illinois, and a resident of Salem, in the Eastern District of Illinois,
22 and is the duly elected, qualified and acting State's Attorney of the County of Marion, in the State of Illinois.

The defendant, Louis A. Busch, is a citizen of the State of Illinois, and is a resident of Urbana, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Champaign, in the State of Illinois.

The defendant, W. F. Spiller, is a citizen of the State of Illinois, and is a resident of Benton, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Franklin, in the State of Illinois.

The defendant, D. T. Hartwell, is a citizen of the State of Illinois, and a resident of Marion, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Williamson, in the State of Illinois.

The defendant, H. A. Spann, is a citizen of the State of Illinois, and a resident of Vienna, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Johnson, in the State of Illinois.

The defendant, Fred R. Young, is a citizen of the State of Illinois, and a resident of Metropolis, in the Eastern District of Illinois, and

is the duly elected, qualified and acting State's Attorney of the County of Massac, in the State of Illinois.

The defendant, Charles Webb, is a citizen of the State of Illinois, and a resident of Belleville, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of St. Clair, in the State of Illinois.

The defendant, Robert Hammond, is a citizen of the State of Illinois, and a resident of Charleston, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Coles, in the State of Illinois.

The defendant, Joseph B. Crowley, is a citizen of the State of Illinois, and a resident of Robinson, in the Eastern District
23 of Illinois, and is the duly elected, qualified and acting State's Attorney in the County of Crawford, in the State of Illinois.

The defendant, Walter Brewer, is a citizen of the State of Illinois, and a resident of Toledo, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Cumberland, in the State of Illinois.

The defendant, W. Thomas Coleman, is a citizen of the State of Illinois, and a resident of Tuscola, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Douglas, in the State of Illinois.

The defendant, Edward A. Schroeder, is a citizen of the State of Illinois, and a resident of Albion, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Edwards, in the State of Illinois.

The defendant, Byron Piper, is a citizen of the State of Illinois, and a resident of Effingham, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Effingham, in the State of Illinois.

The defendant, J. G. Burnside, is a citizen of the State of Illinois, and a resident of Vandalia, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney for the County of Fayette, in the State of Illinois.

The defendant, Oscar H. Wylie, is a citizen of the State of Illinois, and a resident of Paxton, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Ford, in the State of Illinois.

The defendant, James W. Kern, is a citizen of the State of Illinois, and a resident of Watseka, in the Eastern District of Illinois,
24 and is the duly elected, qualified and acting State's Attorney of the County of Iroquois, in the State of Illinois.

The defendant, W. A. Swartz, is a citizen of the State of Illinois, and a resident of Carbondale, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Jackson, in the State of Illinois.

The defendant, Charles D. Fithian, is a citizen of the State of Illinois, and a resident of Newton, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Jasper, in the State of Illinois.

The defendant, Wayne T. Dyer, is a citizen of the State of Illinois,

and a resident of Kankakee, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Kankakee, in the State of Illinois.

The defendant, J. K. Martin, is a citizen of the State of Illinois, and a resident of Sullivan, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Moultrie, in the State of Illinois.

The defendant, S. A. Warden, is a citizen of the State of Illinois, and a resident of Pinckneyville, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Perry, in the State of Illinois.

The defendant, Thomas J. Kastel, is a citizen of the State of Illinois, and a resident of Monticello, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Piatt, in the State of Illinois.

The defendant, John W. Browning, is a citizen of the State of Illinois, and a resident of Golconda, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Pope, in the State of Illinois.

25 The defendant, C. S. Miller, is a citizen of the State of Illinois, and a resident of Mound City, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Pulaski, in the State of Illinois.

The defendant, Alfred D. Riess, is a citizen of the State of Illinois, and a resident of Chester, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Randolph, in the State of Illinois.

The defendant, H. G. Morris, is a citizen of the State of Illinois, and a resident of Olney, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Richland, in the State of Illinois.

The defendant, Sam Thompson, is a citizen of the State of Illinois, and a resident of Harrisburg, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Saline, in the State of Illinois.

The defendant, W. E. Lowe, is a citizen of the State of Illinois, and a resident of Shelbyville, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Shelby, in the State of Illinois.

The defendant, William D. Lyerle, is a citizen of the State of Illinois, and a resident of Jonesboro, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Union, in the State of Illinois.

The defendant, John H. Lewman, is a citizen of the State of Illinois, and a resident of Danville, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of Vermilion, in the State of Illinois.

The defendant, J. Paul Carter, is a citizen of the State of Illinois, and a resident of Nashville, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of

26 the County of Washington, in the State of Illinois.

The defendant, Joe A. Pearce, is a citizen of the State of

Illinois, and a resident of Carmi, in the Eastern District of Illinois, and is the duly elected, qualified and acting State's Attorney of the County of White, in the State of Illinois.

Second. This case involves a question arising under the constitution and laws of the United States, and particularly under the Act of Congress of February 4, 1887, entitled "An Act to Regulate Commerce," as amended, and the amount involved is in excess of $3,000.00, exclusive of interest and costs. The action is of a civil nature, and involves the right of the plaintiff to put in force within the State of Illinois passenger fares which the Interstate Commerce Commission in the full exercise of rightful jurisdiction has held to be reasonable and just, and which plaintiff has been authorized and ordered to establish by said Interstate Commerce Commission in order to remove the undue preferences, and the undue and unreasonable prejudices and disadvantages which are found by the said Interstate Commerce Commission to exist.

Third. Prior to July 1, 1907, the plaintiff charged and collected for the transportation of passengers upon its railroad between points in said State fares upon the basis of three cents per mile for the carriage of adult passengers, and upon the basis of 1½ cents per mile for the carriage of passengers under twelve years of age. On May 27, 1907, the Governor of Illinois approved an act of the Legislature of that State entitled "An Act to establish and regulate the maximum rate charges for the transportation of passengers by corporations or companies operating or controlling railroads in part or in whole in this State, and to provide penalties for the violation of the provisions thereof, and repealing all acts and parts of Acts in conflict herewith," which said Act became effective July
27 1, 1907, and now appears as Section 233, Chapter 114 of the Revised Statutes of the State of Illinois (1915-1916), and is known as the "Maximum Rate of Charges" law. In and by said Act it was provided that thereafter it should be unlawful for any corporation or company engaged in the carriage of passengers upon any railroad between points in the State of Illinois to charge in excess of 2 cents per mile for the carriage of their passengers where any passenger had purchased a ticket entitling him to carriage, or in excess of 1 cent per mile for the carriage of a passenger under twelve years of age where such passenger had purchased a ticket entitling him to carriage. It was further provided by Section 2 of said Act, being Section 234, Chapter 114 of the Revised Statutes of the State of Illinois (1915-1916), that for any violation of the provisions of said Act by any such corporation or company, its agent or employe, such corporation or company should forfeit and pay to the State of Illinois a penalty of not less than twenty-five, nor more than one hundred dollars, for every such violation, to be recovered by a suit brought in the name of the State of Illinois by the Attorney General of the State in a court of competent jurisdiction in any county into or through which said corporation or company ran or passed, or by the State's Attorney of any county through which said corporation or company ran or passed. And it

was further provided that where such penalty was recovered in a suit brought by a State's Attorney, as provided by the Act, there should be recovered in addition thereto the sum of $10 as compensation for said prosecuting attorney. The plaintiff was by virtue of the laws of the State of Illinois compelled to, and did put in force, on and after July 1, 1907, and collect the passenger fares provided in said statute under the penalties therein named.

Fourth. From July 1, 1907, to December 1, 1914, the passenger fares between St. Louis, Missouri, and points in Illinois upon
28 the line of this plaintiff were upon the basis of two cents per mile, plus bridge toll, which said basis of two cents per mile was during such period applied between all points in Illinois as above set forth.

On December 1, 1914, the plaintiff advanced the passenger fares between St. Louis, Missouri, and certain points on its line in Illinois to the basis of two and one-half cents per mile, plus the bridge toll, without making any corresponding advance in passenger fares between points wholly within the State of Illinois.

On anuary 15, 1916, in accordance with the order of the Interstate Commerce Commission, made in the matter known as Western Passenger Fares, Investigation & Suspension Docket No. 600, the plaintiff established passenger fares between St. Louis and certain other points on its line in Illinois upon the basis of 2.4 cents per mile for the distance within the territory embraced in said proceeding, added to said fare established on December 1, 1914, upon the basis of 2.5 cents per mile, as aforesaid, for the remaining distance, plus the bridge tolls, but without making any corresponding advance of passenger fares between points wholly within the State of Illinois.

Fifth. On or about the fourteenth day of June, 1915, the Business Men's League of St. Louis, a corporation, filed its complaint with the Interstate Commerce Commission against the plaintiff and others, which said proceeding is known as Docket No. 8083 of the Interstate Commerce Commission, entitled "Business Men's League of St. Louis v. The Atchison, Topeka & Santa Fe Railway Company, et al.," in which said complaint it was charged, among other things, that the passenger fares between St. Louis, Missouri, and points in Illinois, were unjust and unreasonable, unduly discriminatory, prejudicial, and unlawful, in violation of Sections 1, 2, 3 and 4 of the Act to Regulate Commerce, and it was espe-
29 cially alleged that the failure of the plaintiff to increase the intrastate fares in Illinois, while increasing the interstate fares one-half cent per mile between St. Louis and stations in Illinois had resulted in a disparity in the charges between Illinois points and St. Louis on the one hand, and East St. Louis, Chicago and other Illinois points on the other, which worked a discrimination on inbound and outbound passenger traffic passing over plaintiff's lines between St. Louis and points in Illinois, which constituted an unjust discrimination and undue preference and advantage, in violation of the provisions of the Act to Regulate Commerce.

The defendants in said case included practically all the railroads

engaged in common carriage of passengers within the State of Illinois. In said proceedings, the Chicago Association of Commerce intervened, averring that the granting of the relief asked for would create unjust discrimination against Chicago, if as a consequence Illinois intrastate charges should be increased. The State Public Utilities Commission of Illinois also intervened, averring that the Illinois intrastate fares were not discriminatory, as compared with the fares between St. Louis and Illinois points; that the Illinois intrastate fares were fixed at two cents a mile by the Illinois Legislature; that a comparison between the charges from St. Louis to Illinois points could not be fairly made with the fares for equal distance in Illinois because of the costly service involved in the use of the terminals at St. Louis and the bridges at that place over the Mississippi River; and, finally, that the Interstate Commerce Commission had no authority to fix transportation charges for carriage wholly in Illinois.

The East Side Manufacturers' Association, constituted of interests in East St. Louis, Madison and Granite City, Illinois, also intervened and protested against any action which would result in an increase of the charges for intrastate transportation in Illinois, and denied that its members had any undue advantage, and contended that the Interstate Commerce Commission had no power to order a readjustment of the charges for carriage wholly within Illinois. The Keokuk Industrial Association, of Keokuk, Iowa, also intervened, and averred that Keokuk was in competition with St. Louis, and that any change in rates, rules or practices made with respect to St. Louis upon the traffic in question, should be applied also to Keokuk, and that otherwise the result would be unjust discrimination.

The State of Illinois and the People of the State of Illinois, intervened by Patrick J. Lucey, Attorney General, and averred that the power to prescribe and regulate fares of passengers in Illinois was vested in the Legislature of Illinois; that the Legislature had fixed a maximum of two cents a mile for passenger travel in Illinois; that this act imposed no burden on interstate commerce; and that an allegation of unjust discrimination against St. Louis could not be predicated upon a comparison of charges which did not take into consideration the expense of the terminals at St. Louis and the bridge across the Mississippi River.

This plaintiff answered the said complaint, denying that the passenger fares complained of were unjust or unreasonable, or unduly discriminatory, or in violation of the Act to Regulate Commerce.

Sixth. The said complaint was duly heard by the Interstate Commerce Commission, and the various complainants and defendants, and interveners, including the State Public Utilities Commission of Illinois, and the State of Illinois, and the People of the State of Illinois through Patrick J. Lucey, Attorney General, and Timothy F. Mullen and Thomas Dempsey, Assistant Attorneys General, appeared at said hearing, and offered evidence, filed briefs, and participated in

the oral argument. After full hearing, filing of briefs and making oral argument, the Interstate Commerce Commission on to wit: the 12th day of July, 1916, filed its findings, report and order.

31 By said report and order the said Commission found, for the purpose of ending the discrimination therein found, that the passenger fares for travel between St. Louis, Missouri and Keokuk, Iowa, on the one hand, and points in Illinois on the other, were just and reasonable maximum fares where not in excess of 2.4 cents per mile, tolls over the Mississippi River bridges excepted; that the contemporaneous maintenance of fares between points in Illinois, on the one hand, lower than those maintained between said St. Louis and Keokuk and points in Illinois, on the other, gave undue and unreasonable preference and advantage to intrastate passenger traffic in the State of Illinois and to the localities within said State, and subjected interstate passenger traffic between St. Louis and Keokuk on the one hand, and Illinois points on the other, to undue and unreasonable prejudice and disadvantage, and imposed an unreasonable and unlawful burden on interstate passenger traffic; that the tolls collected for crossing bridges over the Mississippi River at St. Louis and Keokuk were just and reasonable; that the maintenance of lower passenger fares from Chicago to points in Illinois than from St. Louis and Keokuk to points in Illinois resulted in undue preference and advantage in favor of Chicago to the extent that the fares between St. Louis and Keokuk, and the aforesaid Illinois points, exceeded the fares between Chicago and Illinois points, where the distances were approximately equal, by more than a reasonable bridge toll. The order of the Interstate Commerce Commission required the establishment, on or before October 16, 1916, of passenger fares between St. Louis and Keokuk aforesaid, and all points within the State of Illinois, and upon a basis not higher than 2.4 cents a mile, bridge tolls excepted, and required that the discrimination against St. Louis and Keokuk, and against interstate passenger traffic be removed on or before October 16, 1916. A copy of this opinion and order is hereto attached, marked "Exhibit A," and made a part of this Bill of Complaint.

32 Seventh. Afterwards on, to wit, the 6th day of September, 1916, the Interstate Commerce Commission made its order postponing the effective date of the order of July 12, 1916, until the 16th day of November, 1916, but in all other respects leaving the said order in full force and effect. A copy of said order is hereto attached, marked "Exhibit B," and made a part of this Bill of Complaint.

Eighth. Afterwards on, to wit: the 11th day of October, 1916, the Interstate Commerce Commission made its order postponing until further order of the Commission the effective date of its order of July 12, 1916, as subsequently amended by order of September 6, 1916. A copy of said order is hereto attached, marked "Exhibit C," and made a part of this Bill of Complaint.

Ninth. Afterwards on, to wit: the 17th day of October, 1916, the Interstate Commerce Commission made its supplemental report and

order, wherein it found that the interstate fares between St. Louis and Keokuk on the one hand, and interior Illinois points on the other, made on a per mile basis of 2.4 cents would be subject to defeat if the State fares to and from interior Illinois points intermediate to the passengers' ultimate destination be made upon a basis lower than the fares applying between St. Louis or Keokuk and such Illinois destinations, and that any contemporaneous adjustment of fares between St. Louis or Keokuk and Illinois points, and generally within the State of Illinois which would permit the defeat of the St. Louis-Keokuk, East St. Louis or any other east side city fares by using interstate tickets purchased at interstate fares between St. Louis or Keokuk and any east side point in Illinois, and thus continuing the journey to or from any Illinois points on a ticket purchased at the lower State fare and which would thereby permit the continuance of the undue prejudice found to be suffered by St. Louis and Keokuk, and which would continue to
33 burden interstate passenger traffic, would not comply with the amended order entered therein on, to wit: the 17th day of October, 1916. The order of the Interstate Commerce Commission of, to wit: October 17, 1916, directed this plaintiff and other defendants to the said complaint, to cease and desist, on or before January 15, 1917, from publishing, demanding or collecting passenger fares between St. Louis and Keokuk on the one hand, and points in Illinois on the other, upon a basis higher than 2.4 cents per mile, bridge tolls excepted, or higher than the fares contemporaneously exacted for the transportation of passengers between East St. Louis, Illinois, or Illinois points directly opposite Keokuk, and the same Illinois points, by more than a reasonable bridge toll, or fares constructed upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained between Illinois points intermediate between St. Louis and Keokuk on the one hand, and points in Illinois on the other, as such fares were found in said report to be unlawfully discriminatory, and to cease and desist, on or before January 15, 1917, from publishing, demanding or collecting fares for the transportation of passengers between St. Louis and Keokuk on the one hand, and points in Illinois on the other, the basis of which per mile, bridge tolls excepted, is higher than the basis per mile for fares contemporaneously maintained between Chicago and the same Illinois points, as such fares were found in said report to be unlawfully discriminatory. And this plaintiff and the other defendants to said complaint, were directed, on or before January 15, 1917, upon notice to the Interstate Commerce Commission and to the general public by not less than thirty days' filing and posting in the manner prescribed in Section 6 of the Act to Regulate Commerce, to establish and put in force, and thereafter to maintain and apply passenger fares between St. Louis and Keokuk on the one hand, and points in Illinois on the other, the
34 basis of which per mile, bridge tolls excepted, should not exceed 2.4 cents per mile, which basis was found reasonable in the said report of July 12, 1916, nor be in excess per mile of the fares between points in Illinois directly opposite to Keokuk and

St. Louis and the same points, by more than a reasonable bridge toll; and likewise to establish, maintain and apply passenger fares between Keokuk and St. Louis on the one hand, and points in Illinois on the other, the basis of which per mile, bridge tolls excepted, is not higher than the basis per mile for fares contemporaneously maintained between Chicago and those same Illinois points; and to cease and desist, on or before January 15, 1917, and thereafter to abstain from the undue preferences, and the undue and unreasonable prejudices and disadvantages found in said reports of July 12, 1916, and October 17, 1916, to result from the contemporaneous maintenance between Illinois points of passenger fares, which fares in combination with other fares, required or permitted by said order of October 17, 1916, would produce the discrimination against interstate commerce, and the undue preferences in favor of intrastate commerce condemned in the said reports of the Commission. A copy of this supplemental report and order of, to wit: October 17, 1916, is hereto attached, marked "Exhibit D" and made a part of this Bill of Complaint.

Tenth. Copies of said reports and orders, respectively, Exhibits A, B, C and D, were duly served upon this plaintiff. Pursuant to the said Order of October 17, 1916, the plaintiff is preparing tariffs of passenger fares in accordance with the fares authorized in the said report of July 12, 1916, and the supplemental report of October 17, 1916, and in the order of October 17, 1916, for application to the transportation of passengers between St. Louis on the one hand, and Illinois points on the other, and between all points in the State of Illinois, which will be printed and filed with the Inter-
35 state Commerce Commission and the State Public Utilities Commission of Illinois, and posted as required by law, as soon as practicable, and not later than December 15, 1916, which fares will all be upon a basis of 2.4 cents per mile, bridge tolls excepted, as provided in said reports and order, and which fares when said tariffs are so filed and posted, will become, on or before January 15, 1917, the lawful fares to be charged for the transportation of passengers between all points in the State of Illinois, to the exclusion of the fares prescribed by the Maximum Rate of Charges law, being Section 233, of Chapter 114, of the Revised Statutes of the State of Illinois (1915-1916).

Eleventh. Plaintiff further shows to the court that under the Public Utilities Law of Illinois known as Chapter 111-A of the Revised Statutes of Illinois (1915-1916) to which the plaintiff as a common carrier of passengers is subject, it is provided, in Section 33 thereof, that all schedules of rates, fares and charges shall be filed with the State Public Utilities Commission of Illinois; and, in Section 34 thereof, that schedules of all the rates, fares and charges shall be published and posted in the manner and form prescribed by the State Public Utilities Commission; and, in Section 35 thereof, that no service shall be rendered until schedules showing the rates, fares and charges have been filed and published as provided by the said Act; and, in Section 36 thereof, that no changes in any rates or charges shall be made except after thirty days' notice to the

Commission and the public as therein provided, and that no rates or charges shall be increased under any circumstances whatsoever except upon a showing to the State Public Utilities Commission of Illinois and a finding by the Commission that such increase is justified, and it is provided that the said State Public Utilities Commission shall have the power to suspend tariffs showing any such advances until the propriety of the same may be determined after hearing and decision by said Commission. By Section 37 of
36 said law it is forbidden to charge greater or less compensation than the published rates or charges. Section 76 of said law provides that any violation of any provision of said act, or any failure to comply with any order or requirement of the said State Public Utilities Commission, shall be punished by a fine of not less than $500, nor more than $2,000, for each offense, and that every violation of the provisions of said Act or of any such order or requirement of the Commission, shall be a separate and distinct offense. By Section 77 of said law every officer, agent or employe of the plaintiff who violates or fails to comply with any provision of the said act, or fails to observe, obey, or comply with any order or requirement of the said Commission, or who procures, aids, or abets any public utility in its violation of the act, or in its failure to obey, observe or comply with the said Act or any order or requirement of the said Commission, is guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or both. For a continuing violation of either of said sections, each day's continuation is deemed to be a separate and distinct offense.

Plaintiff further shows to the court that under the law of the State of Illinois, it is the duty of the State Public Utilities Commission of Illinois, and of the Attorney General of the State of Illinois, to enforce the provisions of the Constitution and the statutes of the State of Illinois affecting public utilities, and to see that violations thereof are promptly prosecuted, and penalties due the State therefore are recovered and collected as provided in Section- 78 and 79 of the Public Utilities Commission law of Illinois, being Chapter 111-A of the Revised Statutes of Illinois (1915-1916), and that the Attorney General of the State of Illinois, and the various State's Attorneys are authorized to bring suits in the name of the State of Illinois for violation of the said Maximum Rate of Charges law, as pro-
37 vided in Section 2 of said law, and as above set forth in paragraph 3 of this Bill of Complaint. Plaintiff further shows that the defendants, the members of the State Public Utilities Commission of Illinois, and the defendant Patrick J. Lucey, Attorney General of Illinois, have threatened the plaintiff, its officers, agents and employes, with prosecutions under the Public Utilities Commission law of the State of Illinois, and under other statutes of the State of Illinois, including the said Maximum Rate of Charges law for failure on the part of the plaintiff to comply with the provisions of the said Maximum Rate of Charges law in filing the tariffs and demanding and collecting the increased passenger fares authorized by the Interstate Commerce Commission as above set forth, and have

threatened many suits against the plaintiff for the collection of the excessive penalties provided for in said Maximum Rate of Charges law, and in the other statutes above referred to.

Twelfth. The plaintiff further shows that the said Patrick J. Lucey, Attorney General of Illinois, and the said Maclay Hoyne, State's Attorney of Cook County, Illinois, and Charles W. Hadley, State's Attorney of Dupage County, Illinois, and William J. Tyers, State's Attorney of Kane County, Illinois, and George S. Wiley, State's Attorney of La Salle County, Illinois, and Lowell B. Smith, State's Attorney of De Kalb County, Illinois, and Robert W. Martin, State's Attorney of Will County Illinois, and Harry Edwards, State's Attorney of Lee County, Illinois, and William J. Emerson, State's Attorney of Ogle County, Illinois, and Patrick H. O'Donnell, State's Attorney of Boone County, Illinois, and William Johnson, State's Attorney of Winnebago County, Illinois, and Frank T. Sheean, State's Attorney of Jo Daviess County, Illinois, and Albert H. Manus, State's Attorney of Stephenson County, Illinois, and C. E. McNemar, State's Attorney of Peoria County, Illinois, and
F. A. Ortman, State's Attorney of Livingston County, Illinois,
38 and Henry E. Jacobs, State's Attorney of Marshall County, Illinois, and E. E. Black, State's Attorney of Tazewell County, Illinois, and Ernst J. Henderson, State's Attorney of Woodford County, Illinois, and Miles K. Young, State's Attorney of McLean County, Illinois, and James M. Bandy, State's Attorney of Madison County, Illinois, and J. Earl Major, State's Attorney of Montgomery County, Illinois, and Edmund P. Nischwitz, State's Attorney of Mason County, Illinois, and Harry B. Hershey, State's Attorney of Christian County, Illinois, and Louis O. Williams, State's Attorney of De Witt County, Illinois, and C. E. Smith, State's Attorney of Logan County, Illinois, and Jesse L. Deck, State's Attorney of Macon County, Illinois, and Edmund Burke, State's Attorney of Sangamon County, Illinois, and James Murphy, State's Attorney of Macoupin County, Illinois, and Thomas S. Williams, State's Attorney of Clay County, Illinois, and Alexander Wilson, State's Attorney of Alexander County, Illinois, and S. N. Finn, State's Attorney of Marion County, Illinois, and Louis A. Busch, States Attorney, of Champaign County, Illinois, and W. F. Spiller State's Attorney of Franklin County, Illinois, and D. T. Hartwell, State's Attorney of Williamson County, Illinois, and H. A. Spann, State's Attorney of Johnson County, Illinois, and Fred R. Young, State's Attorney of Massac County, Illinois, and Charles Webb, State's Attorney of St. Clair County, Illinois, and Robert Hammond, State's Attorney of Coles County, Illinois, and Joseph B. Crowley, State's Attorney of Crawford County, Illinois, and Walter Brewer, State's Attorney of Cumberland County, Illinois, and W. Thomas Coleman, State's Attorney of Douglas County, Illinois, and Edward A. Schroeder, State's Attorney of Edwards County, Illinois, and Byron Piper, State's Attorney of Effingham County, Illinois, and J. G. Burnside, State's Attorney of Fayette County, Illinois,
and Oscar H. Wylie, State's Attorney of Ford County, Illi-
39 nois, and James W. Kern, State's Attorney of Iroquois County, Illinois, and W. A. Swartz, State's Attorney of Jack-

son County, Illinois, and Charles D. Fithian, State's Attorney of Jasper County, Illinois, and Wayne T. Dyer, State's Attorney of Kankakee County, Illinois, and J. K. Martin, State's Attorney of Moultrie County, Illinois, and S. A. Warden, State's Attorney of Perry County, Illinois, and Thomas J. Kastel, State's Attorney of Piatt County, Illinois, and John W. Browning, State's Attorney of Pope County, Illinois, and C. S. Miller, State's Attorney of Pulaski County, Illinois, and Alfred D. Riess, State's Attorney of Randolph County, Illinois, and H. G. Morris, State's Attorney of Richland County, Illinois, and Sam Thompson, State's Attorney of Saline County, Illinois, and W. E. Lowe, State's Attorney of Shelby County, Illinois, and William D. Lyerle, State's Attorney of Union County, Illinois, and John H. Lewman, State's Attorney of Vermilion County, Illinois, and J. Paul Carter, State's Attorney of Washington County, Illinois, and Joe A. Pearce, State's Attorney of White County, Illinois, defendants herein, in pursuance of the duty imposed upon them by the Maximum Rate of Charges law, the Public Utilities law of Illinois, and other statutes of said State, will, unless restrained by the order of this court, and in case this plaintiff shall not abide by said Maximum Rate of Charges law, or the Public Utilities law of Illinois, or shall disobey their terms, notwithstanding said laws as to the rights of the plaintiff herein are wholly unconstitutional and void, institute innumerable prosecutions against this plaintiff for violations of said laws, and plaintiff will be subjected to innumerable, enormous and excessive fines and penalties, and its employes who disobey the terms of said laws will be subjected to innumerable, enormous and excessive fines and severe imprisonments, and plaintiff and its employes will thereby be intimidated and prevented from testing in good faith in this court the validity of said laws.

Thirteenth. Plaintiff is informed and believes and so charges the fact to be that unless defendants, the members of the State Public Utilities Commission of Illinois, and their agents, servants and employes, and those acting under their authority and instructions, are enjoined by the order of this court, they will refuse to receive, accept, recognize or file or will suspend any and all tariffs fixing passenger fares contrary to or different from those fixed in the Maximum Rate of Charges law above referred to.

Fourteenth. Plaintiff shows that, unless the defendants are enjoined as aforesaid, there will result a great multiplicity of suits, and plaintiff will be subjected to vexatious and excessive penalties, and will be deprived of its right and power to collect the just, reasonable and non-discriminatory fares, amounting to many thousands of dollars, under its proposed tariffs, and will thereby suffer great irreparable injury.

By reason of said facts, the plaintiff shows:

(1) That said Maximum Rate of Charges law, entitled "An Act to establish and regulate the maximum rate of charges for the transportation of passengers by corporations or companies operating or controlling railroads in part or in whole in this state, and to provide penalties for the violation of the provisions thereof, and

repealing all acts and parts of acts in conflict herewith. Approved May 27, 1907. In force July 1, 1907," being Section 233, of Chapter 114, of the Revised Statutes of the State of Illinois (1915-1916), is null and void because it is in conflict with the said report of the Interstate Commerce Commission of July 12, 1916, and the supplemental report and order of said Commission of October 17, 1916, and is a burden upon, and direct interference with, interstate commerce, and in violation of the Constitution of the United States, particularly in violation of paragraph 3, of Section 8, of Article 1 thereof, and also in violation of the Act to Regulate Commerce, and has been so found to be by the said
41 reports and order of the Interstate Commerce Commission.

(2) That Section 2 of the said Maximum Rate of Charges law is void, and Sections 76 and 77 of the Public Utilities Commission law of Illinois are each and all void, and because of the enormous penalties named therein, deny to this plaintiff the equal protection of the laws,and deprive it of its property without due process of law, in violation of the Constitution of the United States, and particularly the Fourteenth Amendment thereof.

Wherefore, as it is without adequate remedy at law for its protection in said matter, plaintiff prays:

(1) That the Maximum Rate of Charges law, being Section 233, of Chapter 114, of the Revised Statutes of Illinois (1915-1916), be declared to be in conflict with the reports and order of the Interstate Commerce Commission hereto attached, marked Exhibit A and Exhibit D, and to be in violation of the constitutional rights of this plaintiff, and to be null and void.

(2) That Section 234, Chapter 114, of the Revised Statute of Illinois (1915-1916), and Sections 76 and 77 of the Public Utilities Law of Illinois, Chapter 111-A of the Revised Statutes of Illinois (1915-1916), and each of them, be declared to be in violation of the constitutional rights of the plaintiff and to be null and void.

(3) That the defendants, the State Public Utilities Commission of Illinois and William L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw and Frank H. Funk, individually and as members of the State Public Utilities Commission of Illinois, and each and all of the servants, employes and agents and other parties acting under the control or authority of each and all of said defendants, be enjoined from refusing to receive, accept, recognize or file or from suspending the tariff's presented by plaintiff for the establishment of fares upon the basis authorized by the Interstate Commerce Commission in its reports and order referred to.

(4) That the defendants, the State Public Utilities Commission of Illinois and William L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw and Frank H. Funk individually and as members of the State Public Utilities Commission of Illinois, and Patrick J. Lucey, Attorney General of Illinois, and Maclay Hoyne, State's Attorney of Cook County, Illinois, and Charles W. Hadley, State's Attorney of Dupage County, Illinois, and
42 William J. Tyers, State's Attorney of Kane County, Illinois, and George S. Wiley, State's Attorney of La Salle County,

Illinois, and Lowell B. Smith, State's Attorney of De Kalb County, Illinois, and Robert W. Martin, State's Attorney of Will County, Illinois, and Harry Edwards, State's Attorney of Lee County, Illinois, and William J. Emerson, State's Attorney of Ogle County, Illinois, and Patrick H. O'Donnell, State's Attorney of Boone County, Illinois, and William Johnson, State's Attorney of Winnebago County, Illinois, and Frank T. Sheean, State's Attorney of Jo Daviess County, Illinois, and Albert H. Manus, State's Attorney of Stephenson County, Illinois, and C. E. McNemar, State's Attorney of Peoria County, Illinois, and F. A. Ortman, State's Attorney of Livingston County, Illinois, and Henry E. Jacobs, State's Attorney of Marshall County, Illinois, and E. E. Black, State's Attorney of Tazewell County, Illinois, and Ernst J. Henderson, State's Attorney of Woodford County, Illinois, and Miles K. Young, State's Attorney of McLean County, Illinois, and James M. Bandy, State's Attorney of Madison County, Illinois, and J. Earl Major, State's Attorney of Montgomery County, Illinois, and Edmund P. Nischwitz, State's Attorney of Mason County, Illinois, and Harry B. Hershey, State's Attorney of Christian County, Illinois, and Louis O. Williams, State's Attorney of De Witt County, Illinois, and C. E. Smith, State's Attorney of Logan County, Illinois, and Jesse L. Deck, State's Attorney of Macon County, Illinois, and Edmund Burke, State's Attorney of Sangamon County, Illinois, and James Murphy, State's Attorney of Macoupin County, Illinois, and Thomas S. Williams, State's Attorney of Clay County, Illinois, and Alexander Wilson, State's Attorney of Alexander County, Illinois, and S. N. Finn, State's Attorney of Marion County, Illinois, and Louis A. Busch, State's Attorney of Champaign County, Illinois, and W. F. Spiller, State's Attorney of Franklin County, Illinois, and D. T. Hartwell, State's Attorney of Williamson County, Illinois, and H. A. Spann, State's Attorney of Johnson County, Illinois, and Fred R. Young, State's Attorney of Massac County, Illinois, and Charles Webb, State's Attorney of St. Clair County, Illinois, and Robert Hammond, State's Attorney of Coles
43 County, Illinois, and Joseph B. Crowley, State's Attorney of Crawford County, Illinois, and Walter Brewer, State's Attorney of Cumberland County, Illinois, and W. Thomas Coleman, State's Attorney of Douglas County, Illinois, and Edward A. Schroeder, State's Attorney of Edwards County, Illinois, and Byron Piper, State's Attorney of Effingham County, Illinois, and J. G. Burnside, State's Attorney of Fayette County, Illinois, and Oscar H. Wylie, State's Attorney of Ford County, Illinois, and James W. Kern, State's Attorney of Iroquois County, Illinois, and W. A. Swartz, State's Attorney of Jackson County, Illinois, and Charles D. Fithian, State's Attorney of Jasper County, Illinois, and Wayne T. Dyer, State's Attorney of Kankakee County, Illinois, and J. K. Martin, State's Attorney of Moultrie County, Illinois, and S. A. Warden, State's Attorney of Perry County, Illinois, and Thomas J. Kastel, State's Attorney of Piatt County, Illinois, and John W. Browning, State's Attorney of Pope County, Illinois, and C. S. Miller, State's Attorney of Pulaski County, Illinois, and Alfred D.

Riess, State's Attorney of Randolph County, Illinois, and H. G. Morris, State's Attorney of Richland County, Illinois, and Sam Thompson, State's Attorney of Saline County, Illinois, and W. E. Lowe, State's Attorney of Shelby County, Illinois, and William D. Lyerle, State's Attorney of Union County, Illinois, and John H. Lewman, State's Attorney of Vermilion County, Illinois, and J. Paul Carter, State's Attorney of Washington County, Illinois, and Joe A. Pearce, State's Attorney of White County, Illinois, their agents, servants and employes, and all persons acting under their control, authority or direction, be perpetually enjoined and restrained from beginning any civil suit or suits, or criminal proceedings or prosecutions to prevent this plaintiff from putting into effect the fares hereinbefore referred to, or from in any way obeying the said order of the Interstate Commerce Commission, and from beginning or encouraging any civil suit or suits, criminal proceedings or prosecutions for the purpose of enforcing any penalties for failure to comply with the Statutes of the State of Illinois, for or on account of anything done, or to be done, by this plaintiff in the publishing, filing and posting of the tariffs above referred to, and the establishment, maintenance and collection of
44 the fares therein provided, and that pending the issuance of a perpetual injunction herein, this honorable Court may grant a temporary injunction herein restraining the said defendants, and each of them, in the manner aforesaid, from instituting any suits or prosecutions hereinbefore mentioned, until the final hearing or order of this court. The plaintiff prays not only a writ of injunction conformable to the prayer, but also that a subpoena of the United States of America issue out of and under the seal of this Honorable Court, directed to the defendants, the State Public Utilities Commission of Illinois and William L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw, and Frank H. Funk, individually and as members of the State Public Utilities Commission of Illinois, and Patrick J. Lucey, Attorney General of Illinois, and Maclay Hoyne, State's Attorney of Cook County, Illinois, and Charles W. Hadley, State's Attorney of Dupage County, Illinois, and William J. Tyers, State's Attorney of Kane County, Illinois, and George S. Wiley, State's Attorney of La Salle County, Illinois, and Lowell B. Smith, State's Attorney of De Kalb County, Illinois, and Robert W. Martin, State's Attorney of Will County, Illinois, and Harry Edwards, State's Attorney of Lee County, Illinois, and William J. Emerson, State's Attorney of Ogle County, Illinois, and Patrick H. O'Donnell, State's Attorney of Boone County, Illinois, and William Johnson, State's Attorney of Winnebago County, Illinois, and Frank T. Sheean, State's Attorney of Jo Daviess County, Illinois, and Albert H. Manus, State's Attorney of Stephenson County, Illinois, and C. E. McNemar, State's Attorney of Peoria County, Illinois, and F. A. Ortman, State's Attorney of Livingston County, Illinois, and Henry E. Jacobs, State's Attorney of Marshall County, Illinois, and E. E. Black, State's Attorney of Tazewell County, Illinois, and Ernst J. Henderson, State's Attorney of Woodford County, Illinois, and Miles K. Young, State's Attorney of McLean County, Illi-

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45 of Logan County, Illinois, and Jesse L. Deck, State's Attorney of Macon County, Illinois, and Edmund Burke, State's Attorney of Sangamon County, Illinois, and James Murphy, State's Attorney of Macoupin County, Illinois, and Thomas S. Williams, State's Attorney of Clay County, Illinois, and Alexander Wilson, State's Attorney of Alexander County, Illinois, and S. N. Finn, State's Attorney of Marion County, Illinois, and Louis A. Busch, State's Attorney of Champaign County, Illinois, and W. F. Spiller, State's Attorney of Franklin County, Illinois, and D. T. Hartwell, State's Attorney of Williamson County, Illinois, and H. A. Spann, State's Attorney of Johnson County, Illinois, and Fred R. Young, State's Attorney of Massac County, Illinois, and Charles Webb, State's Attorney of St. Clair County, Illinois, and Robert Hammond, State's Attorney of Coles County, Illinois, and Joseph B. Crowley, State's Attorney of Crawford County, Illinois, and Walter Brewer, State's Attorney of Cumberland County, Illinois, and W. Thomas Coleman, State's Attorney of Douglas County, Illinois, and Edward A. Schroeder, State's Attorney of Edwards County, Illinois, and Byron Piper, State's Attorney of Effingham County, Illinois, and J. G. Burnside, State's Attorney of Fayette County, Illinois, and Oscar H. Wylie, State's Attorney of Ford County, Illinois, and James W. Kern, State's Attorney of Iroquois County, Illinois, and W. A. Swartz, State's Attorney of Jackson County, Illinois, and Charles D. Fithian, State's Attorney of Jasper County, Illinois, and Wayne T. Dyer, State's Attorney of Kankakee County, Illinois, and J. K. Martin, State's Attorney of Moultrie County, Illinois, and S. A. Warden, State's Attorney of Perry County, Illinois, and Thomas J. Kastel, State's Attorney of Piatt County, Illinois, and John W. Browning, State's Attorney of Pope County, Illinois, and C. S. Miller, State's Attorney of Pulaski County, Illinois, and Alfred D. Riess, State's Attorney of Randolph County, Illinois, and H. G. Morris, State's Attorney of Richland County, Illinois, and Sam Thompson, State's Attorney of Saline County, Illinois, and W. E. Lowe, State's Attorney of Shelby County, Illinois, and William D. Lyerle, State's Attorney of Union County, Illinois, and John H. Lewman, State's Attorney of Vermilion County, Illinois, and
46 J. Paul Carter, State's Attorney of Washington County, Illinois, and Joe A. Pearce, State's Attorney of White County, Illinois, and thereby commanding them, and each of them, on a day certain therein to be named, to be and appear before this Honorable Court, then and there to answer (but not under oath, answer under oath being hereby expressly waived), all and singular the premises, and to perform and abide by such order, direction or decree as may be made in the premises, and that on final hearing hereof said order

of injunction may be made perpetual, and for such other and further relief as to your Honors may seem meet.

And the plaintiff will ever pray.

ILLINOIS CENTRAL RAILROAD COMPANY,
By FRANK B. BOWES,
Vice President.

A. P. HUMBURG,
J. G. DRENNAN,
CALHOUN, LYFORD & SHEEAN,
V. W. FOSTER,
Solicitors.

135 East 11th Place, Chicago, Ill.

BLEWETT LEE,
W. S. HORTON,
Of Counsel.

47 COUNTY OF COOK,
State of Illinois, ss:

Frank B. Bowes, being duly sworn, on oath says that he is Vice President of the plaintiff, Illinois Central Railroad Company, and as such is authorized to make this affidavit in its behalf; that he has read the above and foregoing bill of complaint and is familiar with the facts therein stated, and that all of said facts are true, except those therein stated to be on information and belief, and as to the facts so stated he believes them to be true.

FRANK B. BOWES.

Subscribed and sworn to before me this 20th day of November, 1916.

[SEAL.] ALBERT J. PETERSON,
Notary Public.

My commission expires September 18, 1917.

INTERSTATE COMMERCE COMMISSION.

No. 8083.

BUSINESS MEN'S LEAGUE OF ST. LOUIS
v.
ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY ET AL.

Submitted February 10, 1916. Decided July 12, 1916.

Passenger fares between St. Louis, Mo., and Illinois points attacked as unreasonable and unjustly discriminatory against St. Louis and unduly preferential in favor of East St. Louis, Chicago, and other Illinois points; *Held*, That—

1. Passenger fares between St. Louis and Illinois points are unreasonable in so far as they are in excess of fares constructed upon a basis of 2.4 cents per mile plus a reasonable toll for crossing the Mississippi River.
2. The existing bridge tolls for crossing the Mississippi River at St. Louis and at Keokuk, Iowa, are reasonable.
3. Passenger fares between St. Louis and Illinois points subject St. Louis and its passenger traffic to undue and unreasonable prejudice and disadvantage to the extent that said fares exceed the fares between East St. Louis and the same Illinois points by more than a reasonable bridge toll.
4. Bridge tolls excluded, passenger fares between St. Louis and Illinois points subject St. Louis and its passenger traffic to undue and unreasonable prejudice and disadvantage to the extent that said fares exceed the fares between Chicago and those same Illinois points when the distances are approximately equal.
5. Passenger fares between Keokuk and Illinois points are unreasonable in so far as they are in excess of fares constructed upon a basis of 2.4 cents per mile plus a reasonable toll for crossing the Mississippi River.
6. Passenger fares between Keokuk and Illinois points subject Keokuk and its passenger traffic to undue and unreasonable prejudice and disadvantage to the extent that said fares exceed the fares between points directly opposite Keokuk and those same Illinois points by more than a reasonable bridge toll.
7. Bridge tolls excluded, passenger fares between Keokuk and Illinois points subject Keokuk and its passenger traffic to undue and unreasonable prejudice and disadvantage to the extent that said fares exceed the fares between Chicago and those same Illinois points where the distances are approximately equal.
8. The intrastate passenger fares on the reasonably direct lines of defendants lying in the territory intermediate to Chicago on the north, and St. Louis and Keokuk on the south and southwest, impose an unlawful burden on interstate commerce to the extent that the basis per mile of said fares is less than the basis per mile for fares for interstate passenger travel between St. Louis and Keokuk and Illinois points situate in the general territory first described and reached by reasonably direct routes of defendants' lines.
9. Defendants required to remove discrimination where found to be unjust.

42568—16——1

P. Taylor Bryan and *S. H. West* for complainants.

A. P. Humburg, *C. C. Wright*, *C. B. Cardy*, *N. S. Brown*, *R. B. Scott*, *Garrard Winston*, *E. S. Ballard*, *Robert Dunlap*, *D. P. Connell*, *W. F. Dickinson*, *E. C. Kramer*, *R. Walton Moore*, *J. G. Williams*, *N. W. Proctor*, *William Burger*, *O. W. Dynes*, *T. J. Norton*, *J. W. Elliott*, and *F. G. Wright* for defendants generally and their individual lines.

Patrick J. Lucey, *Timothy F. Mullen*, and *Thomas E. Dempcy* for the state of Illinois, the people of the state of Illinois, and the State Public Utilities Commission of Illinois, interveners.

R. W. Ropiequet for East Side Manufacturers' Association and Chicago Association of Commerce, interveners.

Clifford Thorne, *W. E. Justice*, and *James M. Fulton* for Keokuk Industrial Association, intervener.

REPORT OF THE COMMISSION.

DANIELS, *Commissioner:*

The Business Men's League of St. Louis alleges that the passenger fares and freight rates between St. Louis, Mo., and points in Illinois are unjust and unreasonable, unduly discriminatory, prejudicial, and unlawful, in violation of sections 1, 2, 3, and 4 of the act.

Before the increase of one-half cent per mile in interstate fares and 5 per cent in interstate rates following *The Five Per Cent Case*, 31 I. C. C. 351, the passenger and freight charges between St. Louis and stations in Illinois were substantially the same as the fares and rates between East St. Louis, Ill., and the same Illinois points; but a failure correspondingly to increase the intrastate fares and rates in Illinois has resulted in a disparity in charges between Illinois points and St. Louis and East St. Louis which the complainant avers constitutes unjust discrimination.

While the complainant has not abandoned the formal charge that the present fares and rates between St. Louis and Illinois points are unreasonable, nor gone to the extent of joining with the defendants in seeking a removal of the discrimination by increasing the charges for intrastate transportation in Illinois, the whole conduct of its case indicates that what it seeks primarily is a restoration of the parity previously existing between St. Louis and East St. Louis even if the creation of such parity require an increase in the state fares and rates.

The Chicago Association of Commerce intervened, averring that the granting of relief asked for would create unjust discrimination against Chicago if as a consequence Illinois intrastate charges should be increased.

The State Public Utilities Commission of Illinois also intervened, averring that the Illinois intrastate fares were not discriminatory as

compared with the fares between St. Louis and Illinois points; that the Illinois intrastate fares were fixed at 2 cents a mile by the Illinois legislature; that the defendant carriers have asked the Illinois commission for a general 5 per cent increase in freight rates in Illinois; that action has not yet been taken upon this request; further, that a comparison between the charges from St. Louis to Illinois points can not be fairly made with the fares and rates for equal distances in Illinois because of the costly service involved in the use of the terminals at St. Louis and the bridges at that place over the Mississippi River; and finally, that the Interstate Commerce Commission has no authority to fix transportation charges for carriage wholly in Illinois.

The East Side Manufacturers Association, constituted of interests in East St. Louis, Madison, and Granite City, Ill., intervened and protested against any action which would result in an increase of the charges for intrastate transportation in Illinois; it denies that its members have an undue advantage, and contends that this Commission has no power to order a readjustment of the charges for carriage wholly within Illinois.

The Keokuk Industrial Association intervened and avers that Keokuk, Iowa, is in competition with St. Louis, and that any change in rates, rules, and practices made with respect to St. Louis upon the traffic in question should be applied also to Keokuk and that otherwise the result would be unjust discrimination.

The state of Illinois and the people of the state of Illinois intervened by their attorney general, averring that the power to prescribe and regulate fares of passengers in Illinois is vested in the legislature of Illinois; that the legislature had fixed a maximum of 2 cents a mile for passenger travel in Illinois; that this act imposed no burden on interstate commerce; and that an allegation of unjust discrimination against St. Louis can not be predicated upon a comparison of charges which does not take into consideration the expense of the terminals at St. Louis and the bridge across the Mississippi River.

None of the eastern lines coming into East St. Louis, Ill., reaches St. Louis, Mo., by its own rails. These carriers effect delivery west of the Mississippi River through the Terminal Railroad Association of St. Louis, which is a unification of the several bridge, ferry, and terminal companies serving St. Louis. The terminal association is owned by 18 carriers which pay for the use they make of its facilities according to a prescribed scale, the owning carriers by stipulation making no profit from its operation.

In this report there will be treated only the matter of passenger fares, the issues relating to freight rates being reserved for a subsequent report.

PASSENGER FARES.

The passenger fares between St. Louis, Mo., and points in Illinois have been since December 1, 1914, following *The Five Per Cent Case*, *supra*, generally on a basis of 2½ cents per mile for the distance within Illinois plus a charge of 25 cents for crossing the bridge over the Mississippi River at East St. Louis, or 35 cents at Granite City; while the fares between East St. Louis or Chicago and the same points are on a basis of 2 cents per mile, which is the maximum prescribed by the legislature of Illinois by act of July 1, 1907. Previous to December 1, 1914, the fares between St. Louis and Illinois points were upon almost the same basis as those from East St. Louis.

The following table, showing the present fares on the Chicago & Alton between St. Louis and stations in Illinois as compared with the fares between East St. Louis and the same points, is illustrative of the alleged discrimination:

	East St. Louis.			St. Louis.		
	Miles.	Fare.	Cents per mile.	Miles.	Fare.	Cents per mile.
Plainview, Ill.	44	$0.94	2.1	47	$1.30	2.76
Virden, Ill.	71	1.48	2.08	74	1.70	2.3
Sherman, Ill.	101	2.06	2.03	104	2.30	2.21
Athol, Ill.	123	2.50	2.03	126	3.00	2.38
Shirley, Ill.	146	2.98	2.04	149	3.60	2.41
Ballard, Ill.	172	3.48	2.02	175	4.35	2.48
Odell, Ill.	197	3.98	2.02	200	5.10	2.55
Braidwood, Ill.	221	4.46	2.01	224	5.80	2.58
Lemont, Ill.	253	5.10	2.01	256	6.75	2.63
Brighton Park, Ill.	273	5.52	2.02	276	7.30	2.64

Following is a similar comparison of the Chicago & Eastern Illinois Railroad fares between St. Louis and Illinois points with those between Granite City and the same Illinois stations:

	Granite City.			St. Louis.		
	Miles.	Fare.	Cents per mile.	Miles.	Fare.	Cents per mile.
Ohlman, Ill.	68.5	$1.36	2.0	77	$2.05	2.66
Findlay, Ill.	96	1.92	2.0	105	2.75	2.61
Block, Ill.	145.5	2.90	2.0	154	3.98	2.58
Bryce, Ill.	194.5	3.88	2.0	203	5.24	2.58
Goodenow, Ill.	247.5	4.94	2.0	256	6.62	2.58

These tables illustrate the general relationship between the interstate fares between St. Louis and points in Illinois and fares wholly within the state of Illinois, and show that the interstate fares to and from St. Louis are generally on a basis which is approximately one-half cent per mile higher than the Illinois intrastate fares. Below are compared fares from St. Louis to Illinois points with those for equal distances from Chicago, Ill., to Illinois points:

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY.

From—	To—	Miles.	Fare.	Cents per mile.
St. Louis	Woods, Ill	28	$0.85	3.25
Chicago	Downers Grove, Ill	21	.42	2.0
St. Louis	Rockbridge, Ill	52	1.43	2.84
Chicago	Big Rock, Ill	50	1.00	2.0
St. Louis	Barrow, Ill	74	1.95	2.6
Chicago	Steward, Ill	77	1.50	2.0

CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY.

St. Louis	Findlay, Ill	105	$2.75	2.66
Chicago	Reilly, Ill	104	2.06	2.0
St. Louis	West Ridge, Ill	141	3.68	2.61
Chicago	Bongard, Ill	140	2.80	2.0
St. Louis	Bryce, Ill	202	5.24	2.59
Chicago	Pana, Ill	205	4.00	2.0

An examination of the fares of other carriers shows a similar relationship, with an advantage in favor of Chicago. The following table taken from one of the carriers' exhibits shows the history of the passenger fares from St. Louis to typical points in Illinois, Indiana, Michigan, Ohio, Pennsylvania, New York, and Massachusetts:

Changes in passenger fares from St. Louis, Mo., to typical points in Illinois, Indiana, Michigan, Ohio, Pennsylvania, New York, Massachusetts, March, 1906, to Oct. 14, 1915, and reasons for said changes.

From St. Louis, Mo., to—	Distance (miles).	Column No. 1. Prior to Mar. 10, 1906.		Column No. 2. Mar. 10, 1906–July 1, 1907.		Column No. 3. July 1, 1907–Dec. 1, 1912.	
		Fare.	Rate per mile.	Fare.	Rate per mile.	Fare.	Rate per mile.
Chicago, Ill	284	$7.50	$0.0264	$7.50	$0.0264	$5.80	$0.0204
Mattoon, Ill	120	3.84	.037	3.84	.032	2.60	.0216
Effingham, Ill	101	3.19	.0325	3.19	.0325	2.21	.0225
Cairo, Ill	151	4.65	.0308	4.65	.0308	3.23	.0213
Springfield, Ill	99	2.95	.0298	2.95	.0298	2.10	.0212
Rock Island, Ill	262	7.36	.0281	7.36	.0281	5.45	.02
Galesburg, Ill	208	5.70	.0274	5.70	.0274	4.35	.0209
La Fayette, Ind	233	7.15	.030	7.15	.030	7.15	.030
Fort Wayne, Ind	342	10.00	.0291	[1] 9.80	.0286	[2] 9.55	.0279
Indianapolis, Ind	241	7.40	.0307	[1] 7.00	.029	7.00	.029
Vincennes, Ind	151	4.67	.0309	4.67	.0309	3.19	.0211
Richmond, Ind	309	9.00	.0291	[1] 8.00	.0259	8.00	.0259
South Bend, Ind	337	9.00	.0267	9.00	.0267	7.55	.0224
Grand Rapids, Mich	464	11.78	.0253	11.78	.0253	[2] 10.50 9.55	.0226 .0205
Lansing, Mich	493	11.55	.0234	[1] 11.78	.0237	[2] 10.50 10.00	.0213 .0202
Jackson, Mich	.....	11.55	.026	11.55	.026	[2] 10.50 9.80	..... .022
Detroit, Mich	488	13.00	.0266	[1] 12.20	.025	[3] 11.30	.0231
Toledo, Ohio	436	12.00	.0275	[1] 11.00	.0252	11.00	.0252
Cincinnati, Ohio	339	9.00	.0265	[1] 8.00	.0236	8.00	.0236
Dayton, Ohio	352	9.00	.0255	[1] 8.60	.0244	8.60	.0244
Springfield, Ohio	382	9.65	.0252	[1] 9.10	.0238	9.10	.0238
Columbus, Ohio	437	11.00	.0251	[1] 10.00	.0228	10.00	.0228
Cleveland, Ohio	537	15.00	.0278	[1] 12.50	.0232	12.50	.0232
Pittsburgh, Pa	613	15.75	.0257	[1] 14.00	.0228	14.00	.0228
Pittsburgh, Pa., via B. & O. S. W	.....	14.75	.0236	[1] 13.00	.0208	13.00	.0208
Harrisburg, Pa	858	20.00	.0233	20.00	.0233	20.00	.0233
Philadelphia, Pa	962	21.00	.0218	21.00	.0218	21.00	.0218
Buffalo, N. Y	719	18.25	.0253	[1] 16.75	.0233	16.75	.0233
Albany, N. Y	1,016	22.50 21.00	.0221 .0206	22.50	.0221	22.50 21.00	.0221 .0206
New York City, N. Y	1,052	23.50	.0223	23.50	.0223	23.50	.0223
New York City, N. Y., via B. & O. S. W.	.....	21.00	.0198	21.00	.0198	21.00	.0198
Boston, Mass	1,196	25.50	.0212	25.50	.0212	25.50	.0212

* Column 1—Fares prior to enactment of 2-cent state fare laws.
Column 2—Changes in fares due to Ohio 2-cent fare law.
Column 3—Changes in fares due to Indiana and Illinois 2-cent fare law.

[1] Effective Dec. 25, 1906. [2] Effective July 27, 1907. [3] Effective Nov. 10, 1907.

Changes in passenger fares from St. Louis, Mo., to typical points in Illinois, Indiana, Michigan, Ohio, Pennsylvania, New York, Massachusetts, etc.—Con.

From St. Louis, Mo., to—	Distance (miles).	Column No. 4. Dec. 1, 1912–May 1, 1914.		Column No. 5. May 1, 1914–Dec. 1, 1914.		Column No. 6. Dec. 1, 1914, to date.	
		Fare.	Rate per mile.	Fare.	Rate per mile.	Fare.	Rate per mile.
Chicago, Ill.	284	$5.80	$0.0204	$5.80	$0.0204	$7.50	$0.0264
Mattoon, Ill.	120	2.60	.0216	2.90	.0241	3.23	.0269
Effingham, Ill.	101	2.21	.0225	2.47	.0252	2.70	.0264
Cairo, Ill.	151	3.17	.021	3.17	.021	4.00	.0264
Springfield, Ill.	99	2.10	.0212	2.10	.0212	2.10	.0212
Rock Island, Ill.	262	5.24	.02	5.43	.0207	5.43	.0207
Galesburg, Ill.	208	4.35	.0209	4.35	.0209	4.35	.0209
La Fayette, Ind.	233	[1] 6.05	.0259	5.56	.023	6.00	.0257
Fort Wayne, Ind.	342	[1] 8.63	.0252	8.51	.0248	8.70	.0254
Indianapolis, Ind.	241	[1] 6.20	.0257	6.20	.0257	6.20	.0257
Vincennes, Ind.	151	3.19	.0211	3.70	.0245	3.94	.026
Richmond, Ind.	309	[1] 7.91	.0258	8.00	.0259	7.91	.0258
South Bend, Ind.	337	7.55	.0234	7.55	.0224	8.46	.0251
Grand Rapids, Mich.	464	[1] 9.35	.0201	9.35	.0201	11.95	.0257
Lansing, Mich.	493	10.00	.0202	9.97	.0202	12.54	.0254
Jackson, Mich.		9.80	.022	9.95	.023	11.16	.025
Detroit, Mich.	488	11.30	.0231	11.30	.0231	12.35	.0253
Toledo, Ohio.	436	11.00	.0252	10.80	.0247	11.10	.0254
Cincinnati, Ohio.	339	8.00	.0236	8.00	.0236	8.65	.0255
Dayton, Ohio.	352	8.60	.0244	8.60	.0244	8.95	.0254
Springfield, Ohio.	382	9.10	.0238	9.10	.0238	9.56	.025
Columbus, Ohio.	437	10.00	.0228	10.00	.0228	10.70	.0244
Cleveland, Ohio.	537	12.50	.0232	12.50	.0229	13.25	.0246
Pittsburgh, Pa.	613	14.00	.0228	14.00	.0228	15.48	.0252
Pittsburgh, Pa., via B. & O. S. W.		13.00	.0208	13.00	.0208	14.48	.0232
Harrisburg, Pa.	858	20.00	.0233	20.00	.0233	21.63	.0252
Philadelphia, Pa.	962	21.00	.0218	21.25	.0221	22.75	.0236
Philadelphia, Pa., via B. & O. S. W.				21.00	.0218	22.50	.0231
Buffalo, N. Y.	719	16.75	.0233	16.30	.0226	17.35	.0241
Albany, N. Y.	1,016	22.50	.0221	22.40	.022	23.50	.0231
		21.00	.0206			22.50	.0221
New York City, N. Y.	1,052	23.50	.0223	23.50	.0223	24.75	.0235
New York City, N. Y., via B. & O. S. W.		21.00	.0198	21.00	.0198	22.50	.0211
Boston, Mass.	1,198	25.50	.0212	25.50	.0212	26.35	.022
				[2] 24.80	.0207		

Column 4—Changes in fares caused by elimination of combination in excess of 2½ cents per mile.
Column 5—Changes in fares caused by elimination of all combinations.
Column 6—Changes in fares due to increase in Illinois interstate fares.

[1] Effective Sept. 5, 1912.

[2] Effective Aug. 15, 1914.

The fares between St. Louis and stations in Illinois from July 1, 1907, when the Illinois legislature passed the 2-cent maximum fare law, to 1914 were on a basis of 2 cents per passenger mile; but the fares from St. Louis to points outside of Illinois have been generally upon a basis of 2½ cents a mile since some time before 1906. On May 1, 1914, increases were made in the fares from St. Louis to some stations in Illinois as a part of the adjustment of the interstate fares in central passenger association territory, when fares from St. Louis to points east of the Indiana-Illinois state line were put upon a 2½-cent basis in so far as lines leading directly east from St. Louis were concerned.

On December 1, 1914, there was a general revision of all the fares from St. Louis to nearly all points in Illinois upon a basis of 2½ cents a mile for the Illinois distance, with the addition of the charge for crossing the bridge over the Mississippi River at St. Louis. Then, too, as a result of Fourth Section Order No. 899 and supple-

mental orders of this Commission, resulting from applications of carriers in central freight association territory, all fares in excess of the sum of intermediate fares were adjusted so as not to exceed 2½ cents a mile.

The carriers insist that but for the 2-cent law of Illinois they would have likewise made the fares between East St. Louis and Illinois points 2½ cents a mile at the time they increased the interstate fares; and further, they insist that the present fares between St. Louis and Illinois points are reasonable and in accord with the general adjustment of interstate fares in the section of the country involved.

The complainants maintain that the lower state-made fares tend to divert travel to Chicago, especially when the points in Illinois are about quidistant as between St. Louis and Chicago. This is illustrated by the following:

	Route.	Distance from—		Fares from—	
		Chicago.	St. Louis.	Chicago.	St. Louis.
Arthur, Ill	C. & E. I.	164.9	125.1	$3.20	$3.27
Athol, Ill	C. & A.	155.7	128.2	3.12	3.00
Kenny, Ill	I. C.	155	139	3.10	3.15
Cerro Gordo	Wabash	160	126	3.22	3.25

The fare between St. Louis and Chicago before July 1, 1907, was $7.50; from that date to December 1, 1914, $5.80; and it is now $7.50. The fare between East St. Louis and Chicago has been $5.62 for about nine years, so that whereas there existed a difference in fare as between the two cities of 18 cents, that difference is now $1.88. As a consequence of this disparity in fares, large numbers of passengers from St. Louis to Illinois points purchase tickets from St. Louis to East St. Louis for 25 cents; there they buy tickets from East St. Louis to their destinations in Illinois at the fares whose maximum is fixed at 2 cents a mile by the Illinois legislature. Others cross the river by bridge in street cars or cabs and begin their railroad travel at East St. Louis. Resort to similar means is adopted when the travel is in the reverse direction.

From East St. Louis to Illinois points the defendants during August, 1914, sold 13,348 tickets, while in the same month of 1915 they sold 21,471 such tickets. From East St. Louis to St. Louis during March, 1914, there were purchased 155 bridge tickets; while during March, 1915, 400 were sold. Granite City has witnessed a like increase in bridge ticket sales. From December, 1913, to August, 1914, the tickets from that city to Chicago averaged from 30 to 50 per month, while for the same period from 1914 to 1915 the sales ran from 175 to 300 per month. This marked increase in

ticket sales can be accounted for in no other way than by the desire of the traveling public to take advantage of the lower fares available within Illinois.

Although the carriers refuse to check baggage on a combination of bridge and railroad tickets, travelers frequently insist thereon and the rebuying of tickets and rechecking at East St. Louis lead to confusion and many disagreements between passengers and employees of the railways.

The same service and equipment are provided for the interstate and for the intrastate passenger service; the accommodations accorded to and from Chicago are the same as those from or to either East St. Louis or St. Louis. Nor has there been any relative change in service or equipment since the higher interstate fares have been instituted. The amount paid to the terminal company for carriage into St. Louis, 25 cents from East St. Louis and 35 cents from Granite City, continues the same as before the increase.

Taking into consideration the fact that passenger fares are almost universally constructed upon a distance basis and that St. Louis is in most instances 3 miles farther from a given point in Illinois than is East St. Louis and that part of this distance is over a long bridge, it is proper that the fares between St. Louis and points in Illinois be higher than the fares between East St. Louis and those same Illinois points by an amount which shall include, in addition to the charge for the extra distance, a reasonable bridge toll. The present disparity between these state and interstate fares has brought it about that passenger tickets which would normally be purchased from or to interstate points such as St. Louis, or Keokuk or Clinton, Iowa, are bought much less frequently, and that in their place tickets are bought at points within the state of Illinois, such as East St. Louis, Granite City, Rock Island, and Fulton; the cost of an interstate journey being materially greater than that of traveling over the same rails, and in the same equipment, for practically the same distance to points within Illinois. We conclude that in the matter of passenger fares St. Louis, Mo., is subjected to undue prejudice in favor of East St. Louis, Granite City, and Madison, as well as Chicago and other points within the state of Illinois, and that Keokuk, Iowa, is likewise subjected to undue prejudice.

The defendants admitted specifically that in their opinion this discrimination is unlawful, but insisted that this Commission is the only body that can authoritatively pass thereon; that they were not responsible for creating it; that they have made repeated and unsuccessful appeals to the legislature, the governor, and the people of Illinois to raise the 2 cents a mile maximum prescribed for passenger fares in that state. They further insist that their present interstate passenger fares are reasonable, and that the discrimination

should be removed by an increase in the intrastate fares in Illinois to the level of the present interstate fares.

AS TO REASONABLENESS OF PASSENGER FARES.

In *The Five Per Cent Case*, *supra*, at page 407, the Commission said:

> The need of additional revenues is greatest in central freight association territory, and existing statutes in Ohio, Indiana, Illinois, and Michigan may be obstacles to the raising of passenger fares in those states. But we are confident that if these statutory fares are clearly shown to be unduly burdensome to the carriers, the people of those great states will cheerfully acquiesce, as the people of New England have done, in reasonable increases, and that the necessary legislative authority will be promptly given. The traveling public is giving expression to its demands for better service, better accommodations, and for the adoption by the carriers of all the devices that make for safety. A public that demands such a service can not reasonably object to the payment of a reasonable compensation therefor.

The interstate passenger fares in central passenger association territory were increased generally to a basis of 2½ cents a mile following this expression of opinion; but the Illinois intrastate fares are still held down to 2 cents a mile, notwithstanding that much of the adjacent territory has, when the travel is interstate, a higher basis of fares. There are now 38 states in which passenger fares are permitted on a basis higher than 2 cents a mile, and Illinois is on the western confines of official classification territory, where the usual level of interstate passenger fares is not less than 2½ cents per mile, and partly included in the territory where the basis of passenger fares has been fixed at 2.4 cents per mile. *Increases in Passenger Fares in Western Territory*, 37 I. C. C., 1. As to the Chicago, Peoria & St. Louis Railway Company the application of the 2 cents a mile basis has been enjoined by the federal court as being confiscatory.

The defendants offered the following comparison to show that their present fares from St. Louis, Mo., to Illinois stations mentioned in the complaint are, when not on the same level, on a lower level than fares for comparable distances between points in other states:

Comparison of fares from St. Louis, Mo., to points mentioned in complaint with other fares between points of approximately the same distances and under circumstances not substantially dissimilar.

	Route via—	Miles.	Fare.
St. Louis, Mo., to Clinton, Ill	I. C	147.08	$3.40
Louisville, Ky., to Greencastle, Ind	C., I. & L	146.5	3.75
St. Louis, Mo., to McLean, Ill	C. & A	143	3.40
Cincinnati, Ohio, to Waynesburg, Ky	C., N. O. & T. P	142.3	3.60
St. Louis, Mo., to Villa Grove, Ill	C. & E. I	145	3.79
Parkersburg, W. Va., to Martinsville, Ohio	B. & O. S. W	145	3.85
St. Louis, Mo., to Larchland, Ill	C., B. & Q	179.4	[1] 4.50
Washington, D. C., to Montview, Va	S. Ry	179.8	4.55
St. Louis, Mo., to Monticello, Ill	Wabash	141	3.65
Evansville, Ind., to Bakers, Tenn	L. & N	140.6	3.84

[1] Effective Jan. 15, 1916.

The fares from St. Louis, and from East St. Louis, Granite City, and Madison, Ill., to typical stations in Illinois show the persistence of the bridge toll differential. The following table illustrates the history of certain of these fares since 1907:

Changes in fares between Granite City, East St. Louis, and Madison, Ill., St. Louis, Mo., and typical stations in Illinois—July, 1907–Oct. 14, 1915.

	Prior to July 1, 1907. Fare.	July 1, 1907, to May 1, 1914 (except where otherwise stated). Fare.	May 1, 1914, to Dec. 1, 1914 (except where otherwise stated). Fare.	Dec. 1, 1914, to date (except where otherwise stated). Fare.
Between St. Louis, Mo., and—				
East St. Louis, Ill	$0.25	$0.25	$0.25	$0.25
Madison, Ill	.35	[1].33	.33	.35
Granite City, Ill	.30	.30	.35	.35
Between Chicago, Ill., and—				
St. Louis, Mo	7.50	5.80	5.80	7.50
East St. Louis, Ill	7.25	5.62	5.62	[2]7.25
Madison, Ill	7.20	5.60	5.60	[2]7.20
Granite City, Ill	7.10	5.50	5.50	[2]7.15
Between Mattoon, Ill., and—				
St. Louis, Mo	3.84	2.60	2.90	3.23
East St. Louis, Ill	3.59	2.40	2.65	[2]2.98
Granite City, Ill	.....	2.30	.....	[2]2.88
Between Springfield, Ill., and—				
St. Louis, Mo	2.95	2.10	2.10	2.10
East St. Louis, Ill	2.70	1.92	1.88	[2]1.90
Madison, Ill	2.70	1.90	1.90	[2]1.80
Granite City, Ill	2.65	1.80	1.80	[2]1.80
Between Rock Island, Ill., and—				
St. Louis, Mo	7.36	5.45	5.24	5.43
East St. Louis, Ill	7.11	5.20	5.18	[2]5.18
Between Galesburg, Ill., and—				
St. Louis, Mo	5.70	4.35	4.35	4.35
East St. Louis, Ill	5.45	4.10	4.10	[2]4.10
Between Effingham, Ill., and—				
St. Louis, Mo	3.19	2.21	2.47	2.70
East St. Louis, Ill	2.94	1.96	2.22	[2]2.45
Between Cairo, Ill., and—				
St. Louis, Mo	4.65	3.23	3.17	4.00
East St. Louis, Ill	4.40	2.98	2.92	[2]3.75
Between Clinton, Ill., and—				
St. Louis, Mo	4.12	3.11	3.00	3.40
East St. Louis, Ill	3.87	2.86	2.80	[2]3.20
Madison, Ill	3.85	2.80	2.80	[2]3.10
Between Larchland, Ill., and—				
St. Louis, Mo	5.50	3.77	3.85	4.50
East St. Louis, Ill	5.25	3.52	3.60	3.52
Between McLean, Ill., and—				
St. Louis, Mo	4.20	3.00	3.40	3.40
East St. Louis, Ill	3.95	2.80	3.20	[2]3.20
Granite City, Ill	3.85	2.68	3.10	[2]3.10
Between Villa Grove, Ill., and—				
St. Louis, Mo	4.52	3.02	3.76	3.79
Granite City, Ill	4.11	2.72	3.41	[2]3.44

[1] From Dec. 17, 1910, to Feb. 1, 1914, fare via Merchants bridge was 25 cents.
[2] Basing fares.

The carriers also contended that the charge added for that part of the carriage across the bridge over the Mississippi is reasonable and in line with other bridge tolls. This they illustrate by the following:

Comparison of fares charged over bridges at St. Louis with fares charged over various other bridges.

Bridge located between—	One-way charge.	Distance between points.	Length of bridge.	Length of approaches.
		Feet.	*Feet.*	*Feet.*
1. Evansville, Ind., and Henderson, Ky.	$0.60	65,102	3,195	20,791
2. Washington, D. C., and Alexandria, Va.	.25	43,296	2,542	8,249
3. Wilmington, N. C., and Navassa, N. C.	.15	23,232	977	12,012
4. Nebraska City, Nebr., and Payne, Iowa	.50	30,096	1,132	75
5. Rulo, Nebr., and Fortesque, Mo.	.50	32,208	1,136	855
6. Cairo, Ill., and East Cairo, Ky.	.35	48,576	4,137	16,324
7. Council Bluffs, Iowa, and Omaha, Nebr.	.25	23,548	1,049	569
8. St. Joseph, Mo., and Elwood, Kans.	.30	7,392	1,282	110
9. Sioux City, Iowa, and Sioux City, Nebr.	.25	23,232	1,676	134
10. Stillings, Mo., and Leavenworth, Kans.	.25	7,392	1,108	[1]
11. Winona, Minn., and East Winona, Wis.	.25	11,616	440	2,088
12. Bellaire, Ohio, and Benwood, W. Va.	.25	5,280	2,411	1,433
13. Council Bluffs, Iowa, and Omaha, Nebr.	.25	15,013	1,750	[1]
14. East St. Louis, Ill., and St. Louis, Mo. (Eads bridge)	.25	16,949	1,628	4,814
15. Keithsburg, Ill., and West Keithsburg, Iowa	.25	8,448	2,298	1,501
16. Kenova, W. Va., and South Point, Ohio.	.10	10,032	1,718	2,256
17. Keokuk, Iowa, and Hamilton, Ill.	.30	6,864	2,900	[2]
18. Memphis, Tenn., and Bridge Junction, Ark.	.35	17,600	2,258	2,674
19. Madison, Ill., and St. Louis Mo. (Merchants' bridge)	.35	38,755	1,567	8,940
20. Pacific Junction, Iowa, and Plattsmouth, Nebr.	.25	26,400	1,420	239
21. Parkersburg, W. Va., and Belpre, Ohio.	.25	7,920	1,544	2,851
22. Point Pleasant, W. Va., and Kanauga, Ohio.	.30	13,728	1,370	2,466
23. Alton, Ill., and West Alton, Mo.	.25	14,784	2,102	1,400
24. Cincinnati, Ohio, and Covington, Ky.	.25	3,870	1,540	2,330
25. Cincinnati, Ohio, and Ludlow, Ky.	.10	16,565	1,560	[2]
26. Hannibal, Mo., and East Hannibal, Ill.	.25	448	1,582	6,839
27. Atchison, Kans., and Winthrop, Mo.	.20	2,640	1,176	15
28. Clinton, Iowa, and Fulton, Ill.	.20	15,438	4,235.10	[1]
29. Quincy, Ill., and West Quincy, Mo.	.20	10,560	3,744	[2]
30. Laredo, Tex., and New Laredo, Mexico.	.25	6,318	1,167	5,151
31. Eagle Pass, Tex., and Ciudad Porfirio Diaz, Mexico	.25	9,1344	1,695	7,439
32. Dubuque, Iowa, and East Dubuque, Ill.	.30	8,155	1,535	6,620

[1] No approaches. [2] No data.

For the year ended June 30, 1914, the average receipts per passenger mile in central passenger association territory as a whole were given by the defendants as 1.936 cents, and for 26 roads in Illinois, which is part of central passenger association territory, as 1.748 cents; in trunk line, 1.737 cents; in New England, 1.783 cents; and in New England, trunk line, and central passenger territories combined the average per passenger per mile is 1.815 cents. The average receipts per passenger train-mile are shown as $1.3207 for central passenger association territory, $1.4642 for trunk line, $1.7116 for New England, and $1.33303 for western territory. The population per mile of railroad appears as 444 for central passenger association territory as against 750 for trunk line and 827 for New England territory.

Taking the receipts per passenger train-mile in New England territory as 100 per cent, the relationship of the receipts per passenger train-mile appears, according to the carriers' figures, as follows:

	Per cent.
New England	100
Trunk line	85.5
Western	77.9
Central	77.2

From 1901 to 1907, before the Illinois 2-cent fare statute took effect, the average fare of each passenger upon the Illinois Central Railroad for travel in Illinois was $0.93111, while the average fare from 1908 to 1914 was $0.74036. The average receipts per passenger per mile from 1901 to 1907 were 2.107 cents, while from 1908 to 1914 they were 1.883 cents. Although the number of passengers carried 1 mile as between these two periods increased 42.62 per cent, the revenue from all the passengers carried increased only 27.42 per cent. These figures exclude suburban traffic.

Results of the operation of six representative trains of the Illinois Central for five days in September and October, 1915, were submitted by the defendants and appear as follows:

Number of intrastate and interstate passengers carried, number of passengers carried 1 mile, and passenger revenue, state of Illinois, for six representative trains, for period of five days, extending from the latter part of September into the forepart of October, 1915, Illinois Central Railroad (suburban excluded).

Train No.		Intrastate.				Interstate.				Total.	
		Number passengers.	Per cent.	Passengers 1 mile.	Per cent.	Number passengers.	Per cent.	Passengers 1 mile.	Per cent.	Number passengers.	Passengers 1 mile.
17	Chicago to St. Louis	265	58.7	36,844	44.0	186	41.3	46,881	56.0	451	83,725
18	St. Louis to Chicago	330	67.1	39,808	48.9	162	32.9	41,533	51.1	492	81,341
19	Chicago to St. Louis	573	72.6	38,642	46.7	216	27.4	44,124	53.3	789	82,766
20	St. Louis to Chicago	540	76.8	43,096	60.5	163	23.2	28,123	39.5	703	71,219
2	Centralia to Chicago	1,750	93.2	96,065	77.4	127	6.8	28,001	22.6	1,877	124,066
10	Do	273	58.5	26,930	39.5	194	41.5	41,241	60.5	467	68,171
	Total	3,731	78.1	281,385	55.0	1,048	21.9	229,903	45.0	4,779	511,288

PASSENGER REVENUE.

Train No.		Intrastate.	Per cent.	Interstate.	Per cent.	Total.
17	Chicago to St. Louis	$726.93	41.4	$1,028.59	58.6	$1,755.52
18	St. Louis to Chicago	784.47	48.2	841.32	51.8	1,625.79
19	Chicago to St. Louis	751.41	45.8	889.27	54.2	1,640.68
20	St. Louis to Chicago	863.14	60.6	561.79	39.4	1,424.93
2	Centralia to Chicago	1,912.14	77.8	544.51	22.2	2,456.65
10	Do	536.19	36.9	915.03	63.1	1,451.22
	Total	5,574.28	53.8	4,780.51	46.2	10,354.79

Actual dates of the trains for which the figures were compiled: No. 17, Sept. 28 to Oct. 2; No. 18, Sept. 28 to Oct. 2; No. 19, Sept. 28 to Oct. 2; No. 20, Sept. 28 to Oct. 2; No. 2, Sept. 30 to Oct. 4; No. 10, Sept. 28 to Oct. 2.

Intrastate and interstate passenger revenue, state of Illinois, separated as between the so-called charter lines and the balance of Illinois in which manner the information was available, for July, 1915. Illinois Central Railroad (suburban excluded).

	Intrastate.	Per cent.	Interstate.	Per cent.	Total.
Chicago to Cairo	$124,447.37	53.8	$106,928.85	46.2	$231,376.22
Freeport to Centralia	42,643.00	91.5	3,955.57	8.5	46,598.57
West Junction to East Dubuque	6,708.24	28.0	17,216.97	72.0	23,925.21
Total charter line	173,798.61	57.6	128,101.39	42.4	301,900.00
Balance of Illinois	135,450.40	65.9	70,227.99	34.1	205,678.40
Total	309,249.02	60.9	198,329.38	39.1	507,578.40

It will be observed that while the number of passengers carried 1 mile intrastate in Illinois was 55 per cent of the total, and the number of intrastate passengers 78.1 per cent of the total, the revenue from the intrastate passengers was only 53.8 per cent of the total revenue from intrastate and interstate passengers on these particular trains. During the period from January to August, 1915, of the total passenger traffic upon the Illinois Central Railroad between Chicago and St. Louis approximately 61.5 per cent moved on interstate fares and 38.5 per cent on intrastate fares.

It was testified that the reduction of fares due to the 2-cent statute of Illinois has not stimulated passenger travel, also that the automobile is a material factor of competition, especially in that commercial travelers are using it in canvassing their customers for distances up to 50 miles where before they employed the railroads. The Wabash, along with other carriers, has lost a good deal of passenger traffic to electric roads in Illinois, where this kind of competition is peculiarly sharp, and where in many places the line is paralleled by interurban roads. Whatever effect is due to these competitors tends to lessen the density of passenger traffic on steam roads.

The improvement of the passenger service and equipment which has been demanded and accomplished at increased cost has not been met with an attendant increase in the revenue or in potential capacity of carriage. Steel cars and larger engines generally require heavier rails and other attendant increased expenses, and a sufficient time has not elapsed to ascertain definitely whether or not the percentage of maintenance charges on this new stock will be less or greater than upon the old.

Evidence was submitted as to the cost of the equipment of certain trains in 1913 compared with the cost of an equal amount of equipment in 1903. The data were as follows:

Cost and weight of present steel equipment in service on Illinois Central Railroad trains Nos. 19 and 20 between Chicago and St. Louis as compared with wood equipment previously in service on same trains.

Equipment of one train.	Cost per car.		Weight per car.	
	In service in 1903 (wood cars).	In service since 1913 (steel cars).	In service in 1903 (wood cars).	In service since 1913 (steel cars).
			Pounds.	*Pounds.*
Engine	$16,638	$23,134	[1] 188,000	[2] 245,000
Chair car	9,393	11,580	93,600	121,600
Parlor car	14,342	17,972	112,000	123,000
Diner	14,550	20,227	102,000	148,000
Coach	9,194	12,369	90,000	123,000
Baggage	5,048	11,184	88,000	120,000
Mail	7,728	16,900	107,000	122,000
Total cost of one train	76,893	113,366	780,600	1,033,400

Difference in cost, one train:	
1913	$113,366
1903	76,893
	36,473

Difference in weight, one train:	*Pounds.*
1913	1,033,400
1903	780,600
	252,800

[1] Atlantic type.

[2] Pacific type.

The Vandalia Railroad submitted statistics of passenger traffic upon its St. Louis division. The average receipts per passenger per mile from all passengers, state and interstate, for the year ended June 30, 1915, upon the entire division were 2.22 cents; for that part of the division lying in Illinois, 2.30. The receipts from the interstate fares upon this part of the division in Illinois per passenger per mile were 2.39 cents, while those from intrastate fares in Illinois were 1.96 cents.

A witness for the defendants produced extensive exhibits relating to the general matter of returns on investment, the basis and criticism of which will be analyzed in greater detail in connection with freight traffic, along with cost and traffic data of both freight and passenger business.

Upon 11 roads[1] whose mileage in Illinois was 7,003.53, as against 33,916.18 for their entire lines, for the year 1914 the revenue per passenger per mile for the entire lines was 1.965 cents, while for Illinois it was 1.804 cents, and for the entire lines, excluding Illinois, 2.021 cents. Below appears the revenue per passenger per mile for seven years, contrasting the entire lines with Illinois:

Year.	Revenue per passenger per mile.		Year.	Revenue per passenger per mile.	
	Entire line.	Illinois.		Entire line.	Illinois.
	Cents.	*Cents.*		*Cents.*	*Cents.*
1908	1.939	1.787	1912	1.983	1.783
1909	1.850	1.778	1913	1.997	1.797
1910	1.946	1.767	1914	1.965	1.804
1911	1.970	1.778			

Upon what is termed the assessors' valuation of these 11 roads, the carriers purport to show that the average return for the years 1908–1914 was 4.54 per cent upon the entire lines; 4.27 per cent upon the property in Illinois; and 4.61 upon the entire lines excluding Illinois.

The net railway operating income of these 11 carriers for their entire lines from all operations in 1914 appears as $89,473,658.63; and in 1908 as $82,169,828.55; while the net operating railway income for Illinois for 1914 is given as $15,264,293.65; and for 1908 as $20,024,566.29; although the increase in the number of miles operated on the entire lines during the period is relatively equal to the increase in the number of miles operated in Illinois.

[1] Baltimore & Ohio Southwestern; Chicago & Alton; Chicago & Eastern Illinois; Chicago, Burlington & Quincy; Cleveland, Cincinnati, Chicago & St. Louis; Illinois Central; Mobile & Ohio; St. Louis, Iron Mountain & Southern; Southern Railway; Toledo, St. Louis & Western; Vandalia Railroad.

The net railway operating income from passenger traffic over the entire lines in 1908 was given as $20,753,839.30; and in 1914 as $17,400,169.75. For Illinois in 1908 this was $5,026,614.06; and in 1914, $2,889,938.81. For the entire lines the operating ratio for passenger traffic in 1908 was given as 79.59 per cent, and in 1914 as 86.27 per cent; while for Illinois in 1908 it was given as 79.78 per cent and for 1914 as 90.53 per cent.

For the entire lines the total expense per passenger train-mile in 1908 was given as $0.9882, and in 1914 as $1.1463; while in Illinois it was $1.001 in 1908, and $1.2367 in 1914. For the entire lines the gross operating revenue per train-mile appeared as $1.2417 in 1908, and $1.3288 in 1914; while for Illinois it was $1.2547 in 1908, and $1.3660 in 1914.

Similar statistics were presented for 26 railroads, including the 11 roads above referred to, all operating in Illinois; 15 of these roads, however, have comparatively little mileage in Illinois and it will not be necessary to consider these statistics.

In *Western Passenger Fares, supra*, interstate passenger fares were justified in the northwestern part of Illinois, Wisconsin, the upper peninsula of Michigan, Minnesota, Iowa, Nebraska, Missouri north of the Missouri River, and Kansas on the north of the main line of the Union Pacific Railroad from Kansas City to the Colorado state line upon the basis of 2.4 cents per mile.

From the fare comparisons adduced the conclusion is evident that the present interstate passenger fares between St. Louis and Keokuk on the one hand and points in Illinois on the other are just and reasonable in so far as they are not in excess of 2.4 cents per mile, plus a reasonable bridge toll for crossing the Mississippi River. This conclusion is strengthened by the financial evidence.

We are of opinion and find, for the purposes of ending the discrimination found herein, that the passenger fares for travel between St. Louis, Mo., and points in Illinois are just and reasonable maximum fares where not in excess of 2.4 cents per mile, tolls over Mississippi bridges at St. Louis excepted; that the contemporaneous maintenance of fares between St. Louis, Mo., and points in Illinois, except those for Mississippi River crossings at St. Louis, and of the fares between points in Illinois, the route being wholly intrastate, said points being reached from St. Louis via East St. Louis, Madison, or Granite City, Ill., gives undue and unreasonable preference and advantage to intrastate passenger traffic in the state of Illinois, and to the localities within said state; and subjects interstate passenger traffic between St. Louis, Mo., and Illinois points to undue and unreasonable prejudice and disadvantage; that the

tolls collected for crossing bridges over the Mississippi at St. Louis are just and reasonable; and that the contemporaneous maintenance by the defendants herein between East St. Louis, Madison, Ill., and Granite City, Ill., and Illinois points by intrastate routes, of fares lower than those maintained between St. Louis, Mo., and the same Illinois points via the same routes by more than the present bridge tolls, gives undue and unreasonable preference and advantage to the three Illinois points named above, and to the Illinois intrastate passenger traffic originating or terminating thereat, and subjects St. Louis, Mo., and the passenger traffic between St. Louis, Mo., and Illinois points specified above to undue and unreasonable prejudice and disadvantage; and that the aforesaid preference and advantage to intrastate passenger travel in Illinois and to the Illinois points thereby preferred and advantaged creates and imposes an unreasonable and unlawful burden on interstate passenger traffic.

We are further of opinion and find, for the purposes of ending the discrimination found herein, that the passenger fares for travel between Keokuk, Iowa, and points in Illinois are just and reasonable maximum fares where not in excess of 2.4 cents per mile, tolls over the Mississippi River bridge excepted; that the tolls collected for crossing the bridge over the Mississippi at Keokuk are just and reasonable; and that the contemporaneous maintenance by the defendants herein between points in Illinois directly opposite Keokuk, Iowa, and other Illinois points by intrastate routes, of fares lower than those maintained between Keokuk, Iowa, and those same Illinois points via the same routes by more than the present bridge toll gives undue and unreasonable preference and advantage to the Illinois points directly opposite Keokuk, and to the Illinois intrastate passenger traffic originating or terminating thereat, and subjects Keokuk, Iowa, and the passenger traffic between Keokuk, Iowa, and said Illinois points to undue and unreasonable prejudice and disadvantage; and that the aforesaid preference and advantage to intrastate passenger travel in Illinois and to the Illinois points thereby preferred and advantaged creates and imposes an unreasonable and unlawful burden on interstate passenger traffic.

That passenger fares between St. Louis and Keokuk and points in Illinois are unjustly discriminatory as against St. Louis and Keokuk and unduly preferential in favor of Chicago to the extent that the fares between St. Louis and Keokuk and the aforesaid Illinois points exceed the fares between Chicago and those same Illinois points, where the distances are approximately equal, by more than a reasonable bridge toll.

We are further of opinion and find that intrastate fares on the reasonably direct lines of defendants herein lying in the territory

intermediate to Chicago, Ill., at the north, and St. Louis, Mo., and Keokuk, Iowa, on the south and southwest impose an unlawful burden on interstate commerce in case the basis of such fares per mile is less than the basis per mile for fares for interstate passenger travel between Keokuk, Iowa, and St. Louis, Mo., and Illinois points situate in the general territory first described and reached by reasonably direct routes of defendants herein, bridge tolls excepted.

An appropriate order will issue.

ORDER.

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D. C., on the 12th day of July, A. D. 1916.

No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS

v.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY; THE BALTIMORE & OHIO SOUTHWESTERN RAILROAD COMPANY; CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY; CHICAGO GREAT WESTERN RAILROAD COMPANY; CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY; CHICAGO, MILWAUKEE & GARY RAILWAY COMPANY; CHICAGO, PEORIA & ST. LOUIS RAILROAD COMPANY AND BLUFORD WILSON AND WM. COTTER, RECEIVERS; THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY AND H. U. MUDGE AND J. M. DICKINSON, RECEIVERS; CHICAGO, TERRE HAUTE & SOUTHEASTERN RAILWAY COMPANY; THE CHICAGO & ALTON RAILROAD COMPANY; CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY AND W. J. JACKSON, RECEIVER; CHICAGO & ILLINOIS MIDLAND RAILWAY COMPANY; THE CINCINNATI, HAMILTON & DAYTON RAILWAY COMPANY AND JUDSON HARMON AND RUFUS B. SMITH, RECEIVERS; THE CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY; DEPUE & NORTHERN RAILROAD COMPANY; ELGIN, JOLIET & EASTERN RAILWAY COMPANY; THE HANOVER RAILWAY COMPANY; ILLINOIS CENTRAL RAILROAD COMPANY; THE ILLINOIS SOUTHERN RAILWAY COMPANY; ILLINOIS TERMINAL RAILROAD COMPANY; THE LAKE ERIE & WESTERN RAILROAD COMPANY; LITCHFIELD & MADISON RAILWAY COMPANY; LOUISVILLE & NASHVILLE RAILROAD COMPANY; THE MICHIGAN CENTRAL RAILROAD COMPANY; THE MINNEAPOLIS & ST. LOUIS RAILROAD COMPANY; MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE RAILWAY

COMPANY; MOBILE & OHIO RAILROAD COMPANY; PEORIA & PEKIN UNION RAILWAY COMPANY; PEORIA RAILWAY TERMINAL COMPANY; ROCK ISLAND SOUTHERN RAILWAY; SOUTHERN RAILWAY COMPANY; ST. LOUIS, IRON MOUNTAIN & SOUTHERN RAILWAY COMPANY; TOLEDO, ST. LOUIS & WESTERN RAILROAD COMPANY AND W. L. ROSS, RECEIVER; VANDALIA RAILROAD COMPANY; THE WABASH RAILROAD COMPANY AND E. B. PRYOR AND EDW. F. KEARNEY, RECEIVERS; THE WABASH, CHESTER & WESTERN RAILROAD COMPANY AND J. FRED GILSTER, RECEIVER; TOLEDO, PEORIA & WESTERN RAILWAY COMPANY; THE NEW YORK CENTRAL RAILROAD COMPANY; SOUTHERN ILLINOIS RAILWAY & POWER COMPANY; ST. LOUIS MERCHANTS BRIDGE TERMINAL RAILWAY COMPANY; TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS; WIGGINS FERRY COMPANY.

This case being at issue upon complaint and answers on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the Commission having, on the date hereof, made and filed a report containing its findings of fact and conclusions thereon, which said report is hereby referred to and made a part hereof:

It is ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before October 16, 1916, and thereafter to abstain, from publishing, demanding, or collecting passenger fares between St. Louis, Mo., and points in Illinois upon a basis higher than 2.4 cents per mile, bridge tolls excepted, which basis was found reasonable in the said report, or higher than the fares contemporaneously exacted for the transportation of passengers between East St. Louis, Ill., and the same Illinois points, by more than a reasonable bridge toll, as such fares have been found in said report to be unlawfully discriminatory.

It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before October 16, 1916, and thereafter to abstain, from publishing, demanding, or collecting fares for the transportation of passengers between St. Louis, Mo., and points in Illinois higher, bridge tolls excepted, than the fares contemporaneously exacted for the transportation of passengers between Chicago and these same Illinois points where the distances are approximately the same.

It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before October 16, 1916, and thereafter to abstain, from publishing, demanding, or collecting passenger fares between Keokuk, Iowa, and points in Illinois upon a basis higher than 2.4 cents per mile, bridge tolls excepted, which basis has been found reasonable in said report, nor higher than the fares contemporaneously exacted for the transportation of passengers between points in Illinois directly opposite Keokuk and those same Illinois points by more than a reasonable bridge toll, as such fares have been found in said report to be unlawfully discriminatory.

It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before October 16, 1916, and thereafter to abstain, from publishing, demanding, or collecting fares for the transportation of passengers between Keokuk, Iowa, and points in Illinois higher, bridge tolls excepted, than the fares contemporaneously exacted for the transportation of passengers between Chicago and those same Illinois points where the distances are approximately the same.

It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before October 16, 1916, and thereafter to abstain, from publishing, demanding, or collecting intrastate passenger fares on the lines of the defendants herein lying in the territory intermediate to Chicago, Ill., on the north and St. Louis, Mo., and Keokuk, Iowa, on the south and southwest, upon a basis per mile less, bridge tolls excepted, than the basis per mile for fares for interstate passenger travel between Keokuk, Iowa, and St. Louis, Mo., and Illinois points situate in the general territory first described herein and reached by reasonably direct routes of defendants herein.

It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to establish and put in force on or before October 16, 1916, and maintain in force thereafter and apply to the transportation of passengers between St. Louis and points in Illinois fares upon a basis not in excess of 2.4 cents per mile, bridge tolls excepted, which basis has been found reasonable in the said report, nor in excess of the fares between East St. Louis, Ill., and the same points by more than a reasonable bridge toll.

It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby,

notified and required to establish and put in force on or before October 16, 1916, and thereafter maintain and apply to the transportation of passengers between St. Louis and points in Illinois fares not in excess of the fares between Chicago, Ill., and those same Illinois points where the distances are approximately equal, bridge tolls excepted.

It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to establish and put in force on or before October 16, 1916, and thereafter maintain and apply to the transportation of passengers between Keokuk, Iowa, and points in Illinois fares upon a basis not in excess of 2.4 cents per mile, bridge tolls excepted, which basis has been found reasonable in said report, nor in excess of the fares between points in Illinois directly opposite Keokuk and those same Illinois points by more than a reasonable bridge toll.

It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to establish and put in force, on or before October 16, 1916, and thereafter maintain and apply to the transportation of passengers between Keokuk, Iowa, and points in Illinois fares no higher than the fares between Chicago and those same Illinois points where the distances are approximately the same, bridge tolls excepted.

It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to establish and put in force, on or before October 16, 1916, and thereafter maintain and apply to the transportation of passengers, intrastate fares on the reasonably direct lines of defendants lying in the territory intermediate to Chicago, Ill., on the north and St. Louis, Mo., and Keokuk, Iowa, on the south and southwest the basis of which per mile is not less than the basis per mile for fares for interstate passenger travel between Keokuk, Iowa, and St. Louis, Mo., and Illinois points situate in the general territory first described and reached by reasonably direct routes of defendants herein, bridge tolls excepted.

And it is further ordered, That this order shall remain in force for a period of not less than two years from the date when it shall take effect.

By the Commission.

[SEAL.] GEORGE B. MCGINTY,
Secretary.

WASHINGTON: GOVERNMENT PRINTING OFFICE: 1916

69 EXHIBIT B.

Order.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 6th day of September, A. D. 1916.

No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS

v.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al.

Upon further consideration of the record in the above entitled proceeding, and good cause appearing therefor:

It is Ordered, That the order entered herein on July 12, 1916, and which was by its terms made effective October 16, 1916, be, and it is hereby modified so that it will become effective on November 16, 1916, instead of on said October 16, 1916; but in all other respects the said order of July 12, 1916, shall remain in full force and effect.

By the Commission:

[SEAL.] (Signed) GEORGE B. McGINTY,
Secretary.

EXHIBIT C.

Order.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 11th day of October, A. D. 1916.

No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS

v.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al.

Upon further consideration of the record in the above entitled proceeding, and good cause appearing therefor:

It is Ordered, That the effective date of the order entered in the above entitled proceeding on July 12, 1916, as amended by order of September 6, 1916, be, and it is hereby, postponed until further order of this Commission.

By the Commission:

[SEAL.] (Signed) GEORGE B. McGINTY,
Secretary.

3972

INTERSTATE COMMERCE COMMISSION.

No. 8083.

BUSINESS MEN'S LEAGUE OF ST. LOUIS
v.
ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY ET AL.

Decided October 17, 1916.

Any adjustment of fares as between St. Louis or Keokuk and Illinois destinations, or generally within Illinois, which would permit the defeat of lawfully established fares through the purchase of tickets upon combination fares lower in the aggregate than those lawfully established, will continue the undue prejudice to St. Louis and Keokuk and continue the illegal burden on interstate commerce.

Same appearances as in original report.

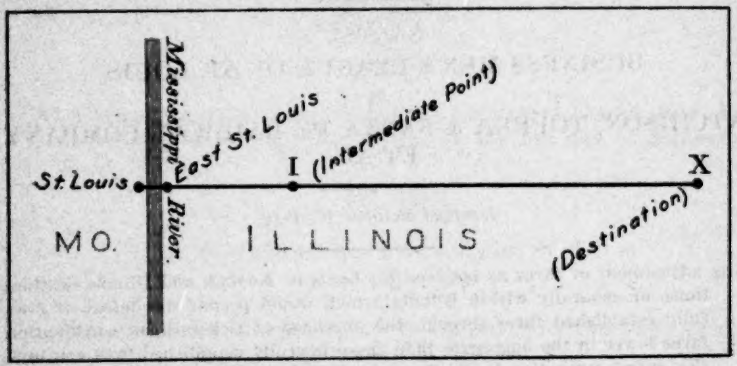
SUPPLEMENTAL REPORT OF THE COMMISSION.

DANIELS, *Commissioner:*

In our original report in this proceeding it was shown how the lower state fares within Illinois furnished a means whereby passengers could and did defeat the lawfully established interstate fares between St. Louis and Illinois points. This was done by using interstate tickets purchased at interstate fares from St. Louis to an east side point in Illinois and thence continuing the journey to any Illinois destination on a ticket purchased at the lower state fare. See 41 I. C. C., pages 19 and 20.

We deem it advisable to point out that the interstate fares between St. Louis and Keokuk on the one hand and interior Illinois points on the other, made on a per mile basis of 2.4 cents, would likewise be subject to defeat if the state fares to and from interior Illinois points intermediate to the passenger's ultimate destination be made upon a basis lower than the fares applying between St. Louis or Keokuk and such Illinois destination. It would be necessary merely for the passenger who desired to defeat the interstate fare to shift the intermediate point at which to purchase his state ticket. Thus, as illustrated by the diagram below, the lawful interstate fare could be defeated so long as the state fares between any intermediate point, I, and the ultimate destination, X, are on a basis per mile lower than the fares between St. Louis and X. The burden and discrimination which a lower basis of fares within the state casts upon the inter-

state commerce would not be removed merely by an increase in the intrastate fares to and from the east bank points.



NOTE.—Assume a fare adjustment, ostensibly complying with the original order herein, on the following basis per mile:

Between St. Louis and East St. Louis, basis bridge toll.
Between St. Louis and I, basis 2.4 cents plus bridge toll.
Between St. Louis and X, basis 2.4 cents plus bridge toll.
Between East St. Louis and I, basis 2.4 cents.
Between East St. Louis and X, basis 2.4 cents.
Between I and X, basis 2 cents.

And not only this burden, but the direct undue prejudice to St. Louis and Keokuk will also continue if the east side cities while on the face of the published tariff paying fares to and from Illinois points upon the same basis as do St. Louis and Keokuk can in practice defeat such fares by paying lower state fares in the aggregate to and from Illinois destinations, by virtue of such an adjustment of fares.

It is our conclusion, and we so find, that any contemporaneous adjustments of fares between St. Louis or Keokuk and Illinois points, and generally within Illinois, which would permit the defeat of the St. Louis, Keokuk, East St. Louis, or any other east side city fares by methods such as described above, and which would thereby permit the continuance of the undue prejudice which we have found is suffered by St. Louis and Keokuk, and continue to burden interstate commerce, will not comply with the amended order entered herein.

ORDER.

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D. C., on the 17th day of October, A. D. 1916.

No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS

v.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY; THE BALTIMORE & OHIO SOUTHWESTERN RAILROAD COMPANY; CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY; CHICAGO GREAT WESTERN RAILROAD COMPANY; CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY; CHICAGO, MILWAUKEE & GARY RAILWAY COMPANY; CHICAGO, PEORIA & ST. LOUIS RAILROAD COMPANY AND BLUFORD WILSON AND WM. COTTER, RECEIVERS; THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY AND H. U. MUDGE AND J. M. DICKINSON, RECEIVERS; CHICAGO, TERRE HAUTE & SOUTHEASTERN RAILWAY COMPANY; THE CHICAGO & ALTON RAILROAD COMPANY; CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY AND W. J. JACKSON, RECEIVER; CHICAGO & ILLINOIS MIDLAND RAILWAY COMPANY; THE CINCINNATI, HAMILTON & DAYTON RAILWAY COMPANY AND JUDSON HARMON AND RUFUS B. SMITH, RECEIVERS; THE CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY; DEPUE & NORTHERN RAILROAD COMPANY; ELGIN, JOLIET & EASTERN RAILWAY COMPANY; THE HANOVER RAILWAY COMPANY; ILLINOIS CENTRAL RAILROAD COMPANY; THE ILLINOIS SOUTHERN RAILWAY COMPANY; ILLINOIS TERMINAL RAILROAD COMPANY; THE LAKE ERIE & WESTERN RAILROAD COMPANY; LITCHFIELD & MADISON RAILWAY COMPANY; LOUISVILLE & NASHVILLE RAILROAD COMPANY; THE MICHIGAN CENTRAL RAILROAD COMPANY; THE

MINNEAPOLIS & ST. LOUIS RAILROAD COMPANY; MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE RAILWAY COMPANY; MOBILE & OHIO RAILROAD COMPANY; PEORIA & PEKIN UNION RAILWAY COMPANY; PEORIA RAILWAY TERMINAL COMPANY; ROCK ISLAND SOUTHERN RAILWAY; SOUTHERN RAILWAY COMPANY; ST. LOUIS, IRON MOUNTAIN & SOUTHERN RAILWAY COMPANY; TOLEDO, ST. LOUIS & WESTERN RAILROAD COMPANY AND W. L. ROSS, RECEIVER; VANDALIA RAILROAD COMPANY; THE WABASH RAILROAD COMPANY AND E. B. PRYOR AND EDW. F. KEARNEY, RECEIVERS; THE WABASH, CHESTER & WESTERN RAILROAD COMPANY AND J. FRED GILSTER, RECEIVER; TOLEDO, PEORIA & WESTERN RAILWAY COMPANY; THE NEW YORK CENTRAL RAILROAD COMPANY; SOUTHERN ILLINOIS RAILWAY & POWER COMPANY; ST. LOUIS MERCHANTS BRIDGE TERMINAL RAILWAY COMPANY; TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS; AND WIGGINS FERRY COMPANY.

It appearing, That on July 12, 1916, the Commission entered its report and order in this proceeding, and on the date hereof a supplemental report, which reports are hereby referred to and made a part hereof:

It is ordered, That the said order of July 12, 1916, be, and it is hereby, vacated, and that the following be substituted therefor:

It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before January 15, 1917, and thereafter to abstain, from publishing, demanding, or collecting passenger fares between St. Louis, Mo., and points in Illinois upon a basis higher than 2.4 cents per mile, bridge tolls excepted, which basis was found reasonable in said report, or higher than the fares contemporaneously exacted for the transportation of passengers between East St. Louis, Ill., and the same Illinois points, by more than a reasonable bridge toll; or fares constructed upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained between Illinois points intermediate between St. Louis, Mo., and points in Illinois, as such fares have been found in said report to be unlawfully discriminatory.

It is further ordered, That the above defendants, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before January 15, 1917, and thereafter to abstain, from publishing, demanding, or collect-

ing fares for the transportation of passengers between St. Louis, Mo., and points in Illinois, the basis of which per mile, bridge tolls excepted, is higher than the basis per mile for fares contemporaneously maintained between Chicago and the same Illinois points, as such fares have been found in said report to be unlawfully discriminatory.

It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before January 15, 1917, and thereafter to abstain, from publishing, demanding, or collecting passenger fares between Keokuk, Iowa, and points in Illinois upon a basis higher than 2.4 cents per mile, bridge tolls excepted, which basis was found reasonable in said report, or higher per mile than the fares contemporaneously exacted for the transportation of passengers between Illinois points directly opposite to Keokuk and the same Illinois points, by more than a reasonable bridge toll; or fares constructed upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained between Illinois points intermediate between Keokuk, Iowa, and points in Illinois, as such fares have been found in said report to be unlawfully discriminatory.

It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before January 15, 1917, and thereafter to abstain, from publishing, demanding, or collecting fares for the transportation of passengers between Keokuk, Iowa, and points in Illinois, the basis of which per mile, bridge tolls excepted, is higher than the basis per mile for fares contemporaneously maintained between Chicago and the same Illinois points, as such fares have been found in said report to be unlawfully discriminatory.

It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to establish and put in force on or before January 15, 1917, upon notice to this Commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in section 6 of the act to regulate commerce, and thereafter to maintain and apply to the transportation of passengers between St. Louis and points in Illinois fares upon a basis not in excess of the fares between East St. Louis, Ill., and the same points by more than a reasonable bridge toll; nor upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained between Illinois points intermediate between St. Louis and points in Illinois, as such fares have been found in said report to be unlawfully discriminatory.

It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to establish and put in force on or before January 15, 1917, upon notice to this Commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in section 6 of the act to regulate commerce, and thereafter to maintain and apply to the transportation of passengers between St. Louis, Mo., and points in Illinois fares, the basis of which per mile, bridge tolls excepted, is not higher than the basis per mile for fares contemporaneously maintained between Chicago and those same Illinois points.

It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to establish and put in force on or before January 15, 1917, upon notice to this Commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in section 6 of the act to regulate commerce, and thereafter to maintain and apply to the transportation of passengers between Keokuk, Iowa, and points in Illinois fares upon a basis not in excess of 2.4 cents per mile, bridge tolls excepted, which basis has been found reasonable in the said report, nor in excess per mile of the fares between points in Illinois directly opposite to Keokuk and the same points by more than a reasonable bridge toll; nor upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously effective between Illinois points intermediate between Keokuk, Iowa, and points in Illinois.

It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to establish and put in force on or before January 15, 1917, upon notice to this Commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in section 6 of the act to regulate commerce, and thereafter to maintain and apply to the transportation of passengers between Keokuk, Iowa, and points in Illinois fares, the basis of which per mile, bridge tolls excepted, is not higher than the basis per mile for fares contemporaneously maintained between Chicago and those same Illinois points.

It is further ordered, That said defendants, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before January 15, 1917, and thereafter to abstain, from the undue preferences and the undue and unreasonable prejudices and disadvantages found in said report to result from the contemporaneous maintenance between Illinois points of passenger fares, which fares, in combination with other fares re-

quired or permitted by this order, would produce the discrimination against interstate commerce and the undue preferences in favor of intrastate commerce condemned in the report of the Commission.

And it is further ordered, That this order shall continue in force for a period of not less than two years from the date when it shall take effect.

By the Commission.

[SEAL.]

GEORGE B. MCGINTY,
Secretary.

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1918

77 And on to-wit: the eleventh day of December, 1916, in the record of proceedings in said entitled cause, before the Hon. Evan A. Evans, Circuit Judge, Hon. Kenesaw M. Landis and Hon. George A. Carpenter, District Judges, appears the following entry, to-wit:

753.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

This cause came on to be heard upon the motion of the plaintiff for an interlocutory injunction, and it appearing to the Court upon the face of the bill that the United States of America and the Interstate Commerce Commission are necessary parties to this proceeding; on motion of the defendants, it is ordered that the United States of America and the Interstate Commerce Commission be made parties to this proceeding, and that the process of subpœna issue against them, as provided by law.

It is further ordered that the motion of the plaintiff for an interlocutory injunction be continued until the final hearing of this cause; and this cause is set for hearing on Wednesday, January 3, 1917.

It is further ordered that the defendants answer the bill herein on or before December 18, 1916.

KENESAW M. LANDIS.

78 And on to-wit: the twelfth day of December, 1916, a certain Chancery Subpœna, directed to the Marshal of the District of Columbia, to execute. Said Subpœna together with the Memorandum thereto attached and the Marshal's return thereon endorsed is in the words and figures following to-wit:

79 UNITED STATES OF AMERICA,
Northern District of Illinois,
Eastern Division, ss:

The President of the United States of America to United States of America and Interstate Commerce Commission, Impleaded, etc., Greeting:

We Command You and Every of You, That you be and appear before our Judges of our District Court of the United States of America, for the Northern District of Illinois, at Chicago, in the Eastern Division of said District, on or before the twentieth day after service of this writ, exclusive of the day of service, to answer or otherwise defend against a certain bill in equity heretofore filed by Illinois Central Railroad Company, in the Clerk's office of said Court, in the City of Chicago, then and there to receive and abide by such judg-

ment and decree as shall then or thereafter be made, upon pain of judgment being pronounced against you by default.

To the Marshal of the Northern District of Illinois to Execute.

Witness the Hon. Kenesaw M. Landis, Judge of the District Court of the United States of America for the Northern District of Illinois at Chicago aforesaid, this 12th day of December in the year of our Lord One Thousand nine hundred and sixteen and of our Independence the 141st year.

[SEAL.] T. C. MACMILLAN, *Clerk.*

Memorandum.

The defendants are required to file their answer or other defense in the Clerk's office on or before the twentieth day after service hereof upon them excluding the day of service; otherwise the said bill may be taken pro confesso.

T. C. MACMILLAN, *Clerk.*

80 Served a copy of the within subpœna on the United States of America, by personally serving Thomas W. Gregory, Attorney General of the United States, personally December 16th, 1916. Served the Interstate Commerce Commission by serving George B. McGinty, Secretary of said Commission, personally December 16, 1916.

MAURICE SPLAIN,
U. S. Marshal, District of Columbia.

(Endorsed:) Filed Dec. 30, 1916. T. C. MacMillan, Clerk.

81 And on to-wit: the thirtieth day of December, 1916, there was filed in the clerk's office of said Court a certain certified copy of Order entered of record on the fourteenth day of December, 1916. Said certified copy of order together with the return thereon endorsed is in the words and figures following to-wit:

In the District Court of the United States, Northern District of Illinois, Eastern Division, Thursday, December 14, 1916.

Present: Honorable Kenesaw M. Landis, District Judge.

752.

CHICAGO, BURLINGTON AND QUINCY RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

Ordered that the Clerk transmit to the United States Marshal for the District of Columbia, copies of the bill herein to be served upon

the United States and the Interstate Commerce Commission, by filing copy thereof in the office of the Interstate Commerce Commission and the Department of Justice.

82 Further Ordered that the Clerk transmit certified copies of the order made on December 11, 1916, for service as above stated; that certificate of clerk cover the order in all cases and that the return of the Marshal be filed in Case No. 752.

In the District Court of the United States of America for the Northern District of Illinois, Eastern Division.

I, T. C. MacMillan, Clerk of the District Court of the United States of America for the Northern District of Illinois, do hereby certify the above and foregoing to be a true and correct copy of an order made and entered in said Court, in Case No. 752, Chicago, Burlington & Quincy Railroad Company versus State Public Utilities Commission of Illinois et al. on the fourteenth day of December, A. D. 1916, as fully as the same appears of record in my office.

And I further certify that the same order was entered in each of the following cases:

No. 753. Illinois Central R. R. Co. vs. State Public Utilities Commission of Illinois et al.

754. Chicago & Alton R. R. vs. Same.

83 755. Chicago Gr. Western R. R. Co. vs. Same.

756. Michigan Central R. R. Co. vs. Same.

757 Chicago and Ill. Midland Railway vs. Same.

758. Chicago, Mil. & St. P. Ry. Co. vs. Same.

759. Wm. J. Jackson, Rec. Chgo. & Eastern Ill. R. R. Co. vs. Same.

760. Jacob M. Dickinson, Rec. Chgo. Rock Island & Pac. Ry. Co. vs. Same.

761. Walter L. Ross, Rec. Toledo, St. Louis & Western R. R. Co. vs. Same.

762. Cleveland, Cincinnati, Chgo. & St. Louis Ry. Co. vs. Same.

763. Lake Erie & Western R. R. Co. vs. Same.

764 New York Central R. R. Co. vs. Same.

765. Bluford Wilson and Wm. Cotter, Recvrs. Chgo., Peoria and St. Louis R. R. Co. vs. Same.

766. Wabash Railway Company vs. Same.

767. Minneapolis, St. P. & Sault Ste. Marie Co. vs. Same.

768. B. F. Bush, Rec. St. Louis, Iron Mountain & So. Ry. Co. et al. vs. Same.

769. Minneapolis and St. Louis R. R. Co. vs. Same.

770. Toledo, Peoria & Western Rv. Co. vs. Same.

771. Cincinnati, Indianapolis & Western R. R. Co. vs. Same.

772. Louisville and Nashville R. R. Co. vs. Same.

773. Mobile and Ohio R. R. Co. vs. Same.

774. Southern Ry. Co. vs. Same.

775. Baltimore and Ohio Southwestern R. R. Co. vs. Same.

776. Vandalia R. R. Co. vs. Same.
84 777. Atchison, Topeka and Santa Fe Ry. Co. vs. Same.
782. Rock Island Southern Railway Company vs. Same.
786. Illinois Southern Railway Company vs. Same.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court at my office, in Chicago, in said District, this fifteenth day of December, A. D. 1916.

[SEAL.] T. C. MacMILLAN, *Clerk.*

Served copy of the within order on the United States of America, by personal service of same on Thomas W. Gregory, Attorney General of the United States, personally December 20, 1916, and a copy of same order was served on the Interstate Commerce Commission by personal service on George B. McGinty, Secretary of said Commission personally December 20th, 1916.

Copies of bills were served personally on said officials on said date in each of the following cases herein referred to and numbered as follows: Nos. 752, 753, 754, 755, 756, *756,* 761, 782 and 786.

MAURICE SPLAIN,
U. S. Marshal, District of Columbia.

(Endorsed:) Filed Dec., 30, 1916. T. C. MacMillan, Clerk.

85 And on to-wit: the eleventh day of December, 1916, in the record of proceedings in said entitled cause, before the Hon. Evan A. Evans, Circuit Judge, Hon. Kenesaw M. Landis and Hon. George A. Carpenter, District Judges, appears the following entry to-wit:

753.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

Upon motion of plaintiff, leave is hereby given to file Supplemental Bill in five days.

86 And on to-wit: the fifteenth day of December, 1916, came the plaintiff in said entitled cause by its solicitors, and by leave of Court first had and obtained, and filed in the clerk's office of said Court, its certain Supplemental Bill, in words and figures following to-wit:

87 In the District Court of the United States for the Northern District of Illinois, Eastern Division.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS and WILLIAM L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw, and Frank H. Funk, as Members of and Constituting the State Public Utilities Commission of Illinois; Patrick J. Lucey, Attorney General of Illinois; Maclay Hoyne, State's Attorney of Cook County, Illinois, and Charles W. Hadley, State's Attorney of Dupage County, Illinois, and Charles L. Abbott, State's Attorney of Kane County, Illinois, and George S. Wiley, State's Attorney of La Salle County, Illinois, and Lowell B. Smith, State's Attorney of De Kalb County, Illinois, and Robert W. Martin, State's Attorney of Will County, Illinois, and Harry Edwards, State's Attorney of Lee County, Illinois, and William J. Emerson, State's Attorney of Ogle County, Illinois, and Patrick H. O'Donnell, State's Attorney of Boone County, Illinois, and William Johnson, State's Attorney of Winnebago County, Illinois, and Harry C. Tear, State's Attorney of Jo Daviess County, Illinois; Charles H. Green, State's Attorney of Stephenson County, Illinois, and C. E. McNemar, State's Attorney of Peoria County, Illinois, and John H. McFadden, State's Attorney of Livingston County, Illinois, and Henry E. Jacobs, State's Attorney of Marshall County, Illinois, and E. E. Black, State's Attorney of Tazewell County, Illinois, and Ernst J. Henderson, State's Attorney of Woodford County, Illinois, and Miles K. Young, State's Attorney of McLean County, Illinois, and James M. Bandy, State's Attorney of Madison County, Illinois, and J. Earl Major, State's Attorney of Montgomery County, Illinois, and Edmund P. Nischwitz, State's Attorney of Mason County, Illinois, and Harry B. Hershey, State's Attorney of Christian County, Illinois, and Grover Cleveland Hoff, State's Attorney of De Witt County, Illinois, and C. E. Smith, State's Attorney of Logan County, Illinois, and Jesse L. Deck, State's Attorney of Macon County, Illinois, and C. F. Mortimer, State's Attorney of Sangamon County, Illinois, and Victor H. Hemphill, State's Attorney of Macoupin County, Illinois, and H. W. Shriner, State's Attorney of Clay County, Illinois, and Leslie L. Wilbourne, State's Attorney of Alexander County, Illinois, and S. W. Finn, State's Attorney of Marion County, Illinois, and Louis A. Busch, State's Attorney of Champaign County, Illinois, and Roy C. Martin, State's Attorney of Franklin County, Illinois, and R. R. Fowler, State's Attorney of Williamson County, Illinois, and O. R. Morgan, State's Attorney of Johnson County, Illinois, and Walter Roberts, State's Attorney of Massac County, Illinois, and Hulbert E. Schaumleffel, State's Attorney of St. Clair County, Illinois, and Robert Hammond,

State's Attorney of Coles County, Illinois, and Joseph B. Crowley, State's Attorney of Crawford County, Illinois, and Glenn Ratcliff, State's Attorney of Cumberland County, Illinois, and S. S. Duhamel, State's Attorney of Douglas County, Illinois, and Allen E. Walker, State's Attorney of Edwards County, Iliinois, and Byron Piper, State's Attorney of Effingham County, Illinois, and W. P. Welker, State's Attorney of Fayette County, Illinois, and F. M. Thompson, State's Attorney of Ford County, Illinois, and James W. Kern, State's Attorney of Iroquois County, Illinois, and Otis F. Glenn, State's Attorney of Jackson County, Illinois,
and W. E. Isley, State's Attorney of Jasper County, Illi-
88 nois, and Wayne H. Dyer, State's Attorney of Kankakee County, Illinois, and C. R. Patterson, State's Attorney of Moultrie County, Illinois, and S. A. Warden, State's Attorney of Perry County, Illinois, and Charles W. Firke, State's Attorney of Piatt County, Illinois, and John W. Browning, State's Attorney of Pope County, Illinois, and C. S. Miller, State's Attorney of Pulaski County, Illinois, and Alfred D. Reiss, State's Attorney of Randolph County, Illinois, and S. O. Lewis, State's Attorney of Richland County, Illinois, and James B. Lewis, State's Attorney of Saline County, Illinois, and A. L. Yantis, State's Attorney of Shelby County, Illinois, and James Lingle, State's Attorney of Union County, Illinois, and John H. Lewman, State's Attorney of Vermillion County, Illinois, and H. H. House, State's Attorney of Washington County, Illinois, and Joe A. Pearce, State's Attorney of White County, Illinois, and United States of America, and Interstate Commerce Commission, Defendants.

Supplemental Bill of Complaint.

To the Judges of the District Court of the United States in and for the Northern District of Illinois, Eastern Division:

Now comes the above named plaintiff and by leave of court had files this, its supplemental bill of complaint, and says:

89 First. That on, to-wit, the 20th day of November, 1916 it duly filed its original bill of complaint in this Honorable Court against the State Public Utilities Commission of Illinois, William L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw and Frank H. Funk, as members of and constituting the State Public Utilities Commission of Illinois; Patrick J. Lucy, Attorney General of Illinois; Maclay Hoyne, State's Attorney of Cook County, Illinois, and Charles W. Hadley, State's Attorney of Dupage County, Illinois, and Charles L. Abbott, State's Attorney of Kane County, Illinois, and George S. Wiley, State's Attorney of La Salle County, Illinois, and Lowell B. Smith, State's Attorney of De Kalb County, Illinois, and Robert W. Martin, State's Attorney of Will County, Illinois, and Harry Edwards, State's Attorney of Lee County, Illinois, and William J. Emerson, State's Attorney of Ogle County, Illinois, and Patrick H. O'Donnell, State's Attorney of Boone County, Illinois, and William Johnson, State's Attorney of

Winnebago County, Illinois, and Harry C. Tear, State's Attorney of Jo Daviess County, Illinois, Charles H. Green, State's Attorney of Stephenson County, Illinois, and C. E. McNemar, State's Attorney of Peoria County, Illinois, and John H. McFadden, State's Attorney of Livingston County, Illinois, and Henry E. Jacobs, State's Attorney of Marshall County, Illinois, and E. E. Black, State's Attorney of Tazewell County, Illinois, and Ernst J. Henderson, State's Attorney of Woodford County, Illinois, and Mile K. Young, State's Attorney of McLean County, Illinois, and James M. Bandy, State's Attorney of Madison County, Illinois, and J. Earl Major, State's Attorney of Montgomery County, Illinois, and Edmund P. Nischwitz, State's Attorney of Mason County, Illinois, and Harry B. Hershey, State's Attorney of Christian County, Illinois, and Grovery Cleveland Hoff, State's Attorney of De Witt County, Illinois, and C. E. Smith, State's Attorney of Logan County, Illinois, and Jesse L. Deck, State's Attorney of Macon County, Illinois, and C. F. Mortimer, State's Attorney of Sangamon County, Illinois, and Victor H. Hemphill, State's Attorney of Macoupin County, Illinois, and H. W. Shriner, State's Attorney of Clay County, Illinois, and Leslie N. Wilbourne, State's Attorney of Alexander County, Illinois, and S. N. Finn, State's Attorney of Marion County, Illinois, and Louis A. Busch, State's Attorney of Champaign County, Illinois, and Roy C. Martin, State's Attorney of Franklin County, Illinois, and R. R. Fowler, State's Attorney of Williamson County, Illinois, and O. R. Morgan, State's Attorney of Johnson County, Illinois, and Walter Roberts, State's Attorney of Massac County, Illinois, and Hubert E. Schaumleffel, State's Attorney of St. Clair County, Illinois, and Robert Hammond, State's Attorney of Coles County, Illinois, and Joseph B. Crowley, State's Attorney of Crawford County, Illinois, and Glenn Ratcliff, State's Attorney of Cumberland County, Illinois, and S. S. Duhamel, State's Attorney of Douglas County, Illinois, and Allen E. Walker, State's Attorney of Edwards County, Illinois, and Byron Piper, State's Attorney of Effingham County, Illinois, and W. P. Welker, State's Attorney of Fayette County, Illinois, and F. M. Thompson, State's Attorney of Ford County, Illinois, and James W. Kern, State's Attorney of Iroquois County, Illinois, and Otis F. Glenn, State's Attorney of Jackson County, Illinois, and W. E. Isley, State's Attorney of Jasper County, Illinois, and Wayne H. Dyer, State's Attorney of Kankakee County, Illinois, and C. R. Patterson, State's Attorney of Moultrie County, Illinois, and S. A. Warden, State's Attorney of Perry County, Illinois, and Charles W. Firke, State's Attorney of Piatt County, Illinois, and John W. Browning, State's Attorney of Pope County, Illinois, and C. S. Miller, State's Attorney of Pulaski County, Illinois, and Alfred D. Reiss, State's Attorney of Randolph County, Illinois, and S. C. Lewis, State's Attorney of Richland County, Illinois, and James B. Lewis, State's Attorney of Saline County, Illinois, and A. L. Yantis, State's Attorney of Shelby County, Illinois, and James Lingle, State's Attorney of Union County, Illinois, and John H.
90 Lewman, State's Attorney of Vermilion County, Illinois, and H. H. House, State's Attorney of Washington County,

Illinois, and Joe A. Pearce, State's Attorney of White County, Illinois, in which the plaintiff prayed for certain relief, the particulars of which are set forth in full in the said original bill filed in the office of the Clerk of this Court on the said 20th day of November, 1916, reference to which is hereby made as though the same were set forth herein in full. The plaintiff further shows to your Honors that the above named defendants were duly served with process of subpœna in said suit and that none of the said defendants has made answer to said bill.

92 The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant William J. Tyers, sued as the State's Attorney in and for the County of Kane in the State of Illinois, has been succeeded in office by Charles L. Abbott, who is a citizen of the State of Illinois and a resident of Elgin, in the Northern District of Illinois, Eastern Division, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Kane in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant Albert H. Manus, sued as the State's Attorney in and for the County of Stephenson in the State of Illinois, has been succeeded in office by Charles H. Green, who is a citizen of the State of Illinois and a resident of Freeport, in the Northern District of Illinois, Western Division, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Stephenson in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant Frank T. Sheean, sued as the State's Attorney in and for the County of Jo Daviess in the State of Illinois, has been succeeded in office by Harry C. Tear, who is a citizen of the State of Illinois and a resident of Warren, in the Northern District of Illinois, Western Division, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Jo Daviess in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant, F. A. Ortman, sued as the State's Attorney in and for the County of Livingston in the State of Illinois, has been succeeded in office by John H. McFadden, who is a citizen of the State of Illinois and a resident of Pontiac, in the Southern District of Illinois, Northern Division, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Livingston in the State of Illinois.

93 The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant Louis O. Williams, sued as the State's Attorney in and for the County of De Witt in the State of Illinois, has been succeeded in office by Grovery Cleveland Hoff, who is a citizen of the State of Illinois and a resident of Clinton, in the Southern District of Illinois, Southern Division, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of De Witt in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant Edmund Burke, sued as the

State's Attorney in and for the County of Sangamon in the State of Illinois, has been succeeded in office by C. F. Mortimer, who is a citizen of the State of Illinois and a resident of Springfield, in the Southern District of Illinois, Southern Division, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Sangamon in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant Edmund Burke, sued as the State's Attorney in and for the County of Sangamon in the State of Illinois, has been succeeded in office by C. F. Mortimer, who is a citizen of the State of Illinois and a resident of Springfield, in the Southern District of Illinois, Southern Division, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Sangamon in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant Thomas S. Williams, sued as the State's Attorney in and for the County of Clay in the State of Illinois, has been succeeded in office by H. W. Shriner, who is a Citizen of the State of Illinois and a resident of Flora, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Clay in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant Alexander Wilson, sued as the State's Attorney in and for the County of Alexander in the
94 State of Illinois, has been succeeded in office by Leslie L. Wilbourn, who is a citizen of the State of Illinois and a resident of Cairo, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Alexander in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant W. F. Spiller, sued as the State's Attorney in and for the County of Franklin in the State of Illinois, has been succeeded in office by Roy C. Martin, who is a citizen of the State of Illinois and a resident of Benton, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Franklin in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant D. T. Hartwell, sued as the State's Attorney in and for the County of Williamson in the State of Illinois, has been succeeded in office by R. R. Fowler, who is a citizen of the State of Illinois and a resident of Marion, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Williamson in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant H. A. Spann, sued as the State's Attorney in and for the County of Johnson in the State of Illinois, has been succeeded in office by O. R. Morgan, who is a citizen of the State of Illinois and a resident of Vienna, in the Eastern District of

Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Johnson in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant Fred R. Young, sued as the State's Attorney in and for the County of Massac in the State of Illinois, has been succeeded in office by Walter Roberts, who is a
95 citizen of the State of Illinois and a resident of Metropolis, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Massac in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant Charles Webb, sued as the State's Attorney in and for the County of St. Clair in the State of Illinois, has been succeeded in office by Hubert E. Schaumleffel, who is a citizen of the State of Illinois and a resident of Belleville, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of St. Clair in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant Walter Brewer, sued as the State's Attorney in and for the County of Cumberland in the State of Illinois, has been succeeded in office by Glenn Ratcliff, who is a citizen of the State of Illinois and a resident of Greenup, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Cumberland in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant W. Thomas Coleman, sued as the State's Attorney in and for the County of Douglas in the State of Illinois, has been succeeded in office by S. S. Duhamel, who is a citizen of the State of Illinois and a resident of Tuscola, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Douglas in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant Edward A. Schroeder, sued as the State's Attorney in and for the County of Edwards in the State of Illinois, has been succeeded in office by Allen E. Walker, who is a citizen of the State of Illinois and a resident of Albion, in
96 the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Edwards in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant J. G. Burnside, sued as the State's Attorney in and for the County of Fayette in the State of Illinois, has been succeeded in office by W. P. Welker, who is a Citizen of the State of Illinois and a resident of Vandalia, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Fayette in the State of Illinois.

The plaintiff further avers that since the filing of the original bill

of complaint herein, the defendant Oscar H. Wylie, sued as the State's Attorney in and for the County of Ford in the State of Illinois, has been succeeded in office by F. M. Thompson, who is a citizen of the State of Illinois and a resident of Paxton, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Ford in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant W. A. Swartz, sued as the State's Attorney in and for the County of Jackson in the State of Illinois, has been succeeded in office by Otis F. Glenn, who is a citizen of the State of Illinois and a resident of Murphysboro, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Jackson in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant Charles D. Fithian, sued as the State's Attorney in and for the County of Jasper in the State of Illinois, has been succeeded in office by W. E. Isley, who is a citizen of the State of Illinois and a resident of Newton, in the Eastern District of Illinois, and who has been duly elected, qualified,
97 and is now acting as State's Attorney for the County of Jasper in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant J. K. Martin, sued as the State's Attorney in and for the County of Moultrie in the State of Illinois, has been succeeded in office by C. R. Patterson, who is a citizen of the State of Illinois and a resident of Sullivan, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Moultrie in the State of Illinois.

The Plaintiff further avers that since the filing of the original bill of complaint herein, the defendant Thomas J. Kastel, sued as the State's Attorney in and for the County of Piatt in the State of Illinois, has been succeeded in office by Charles W. Firke, who is a citizen of the State of Illinois and a resident of Mansfield, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Piatt in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant H. G. Morris, sued as the State's Attorney in and for the County of Richland in the State of Illinois, has been succeeded in office by S. C. Lewis, who is a citizen of the State of Illinois and a resident of Olney, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Richland in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant Sam Thompson, sued as the State's Attorney in and for the County of Saline in the State of Illinois, has been succeeded in office by James B. Lewis, who is a

citizen of the State of Illinois and a resident of Harrisburg, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Saline in the State of Illinois.

98 The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant W. E. Lowe, sued as the State's Attorney in and for the County of Shelby in the State of Illinois, has been succeeded in office by A. L. Yantis, who is a citizen of the State of Illinois and a resident of Shelbyville, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Shelby in the State of Illinois.

The plaintiff further avers that since the filing of the original bill of complaint herein, the defendant William D. Lyerle, sued as the State's Attorney in and for the County of Union in the State of Illinois, has been succeeded in office by James Lingle, who is a citizen of the State of Illinois and a resident of Jonesboro, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Union in the State of Illinois.

And the plaintiff further avers that since the filing of the original bill of complaint herein, the defendant J. Paul Carter, sued as the State's Attorney in and for the County of Washington in the State of Illinois, has been succeeded in office by H. H. House, who is a citizen of the State of Illinois and a resident of Nashville, in the Eastern District of Illinois, and who has been duly elected, qualified, and is now acting as State's Attorney for the County of Washington in the State of Illinois.

99 Second. The plaintiff further, upon motion of the defendants and in obedience to the order of the court thereon, makes parties defendant herein the United States of America and the Interstate Commerce Commission.

Third. The plaintiff further avers that, in accordance with the allegations of the original bill of complaint herein, it did on the 29th day of November, 1916, file with the Interstate Commerce Commission its tariffs known as Illinois Central I. C. C. Nos. Supp. 1 to A-4458, 1st Revised Pages 21, 36 and 41 to A-4506, A-4571, Supp. 1 to A-4573, A-4585, A-4586, A-4587, A-4588, A-4589, A-4590, A-4591, A-4592, A-4593, A-4594, A-4595, A-4596, A-4609, A-4610 and A-4611; and on the 2nd day of December, 1916, its tariffs known as Illinois Central I. C. C. Nos. A-4612 and A-4613; and that it did on the 27th day of November, 1916, file with the State Public Utilities Commission of Illinois its tariffs known as Illinois Central I. P. U. C. Nos. 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287 and 288, certified copies of which tariffs are ready to be produced on the hearing hereof.

99½ Wherefore, as it is without adequate remedy at law for its protection in said matter, the plaintiff prays:

1. That the said Charles L. Abbott, State's Attorney of Kane County, Illinois, Harry C. Tear, State's Attorney of Jo Daviess County, Illinois, Charles H. Green, State's Attorney of Stephenson

County, Illinois, John H. McFadden, State's Attorney of Livingston County, Illinois, Grover Cleveland Hoff, State's Attorney of De Witt County, Illinois, C. F. Mortimer, State's Attorney of Sangamon County, Illinois, Victor H. Hemphill, State's Attorney of Macoupin County, Illinois, H. W. Shriner, State's Attorney of Clay County, Illinois, Leslie L. Wilbourn, State's Attorney of Alexander County, Illinois, Roy C. Martin, State's Attorney of Franklin County, Illinois, R. R. Fowler, State's Attorney of Williamson County, Illinois, O. R. Morgan, State's Attorney of Johnson County, Illinois, Walter Roberts, State's Attorney of Massac County, Illinois, Hubert E. Schaumleffel, State's Attorney of St. Clair County, Illinois, Glenn Ratcliff, State's Attorney of Cumberland County, Illinois, S. S. Duhamel, State's Attorney of Douglas County, Illinois, Allen E. Walker, State's Attorney of Edwards County, Illinois, W. P. Walker, State's Attorney of Fayette County, Illinois, F. M. Thompson, State's Attorney of Ford County, Illinois, Otis F. Glenn, State's Attorney of Jackson County, Illinois, W. E. Isley, State's Attorney of Jasper County, Illinois, C. R. Patterson, State's Attorney of Moultrie County, Illinois, Charles W. Firke, State's Attorney of Piatt County, Illinois, S. C. Lewis, State's Attorney of Richland County, Illinois, James B. Lewis, State's Attorney of Saline County, Illinois, A. L. Yantis, State's Attorney of Shelby County, Illinois, James Lingle, State's Attorney of Union County, Illinois, and H. H. House, State's Attorney of Washington County, Illinois, who are hereby made parties defendant to this bill, may be required to make full and true answer to the same and to the original bill filed herein (but not under oath, answer under oath being hereby expressly waived), and that the plaintiff may have the full benefits of the said suit and proceedings therein against the said Charles L. Abbott, State's Attor-
100 ney of Kane County, Illinois, Harry C. Tear, State's Attorney of Jo Daviess County, Illinois, Charles H. Green, State's Attorney of Stephenson County, Illinois, John H. McFadden, State's Attorney of Livingston County, Illinois, Grover Cleveland Hoff, State's Attorney of De Witt County, Illinois, C. F. Mortimer, State's Attorney of Sangamon County, Illinois, Victor H. Hemphill, State's Attorney of Macoupin County, Illinois, H. W. Shriner, State's Attorney of Clay County, Illinois, Leslie L. Wilbourn, State's Attorney of Alexander County, Illinois, Roy C. Martin, State's Attorney of Franklin County, Illinois, R. R. Fowler, State's Attorney of Williamson County, Illinois, O. R. Morgan, State's Attorney of Johnson County, Illinois, Walter Roberts, State's Attorney of Massac County, Illinois, Hubert E. Schaumleffel, State's Attorney of St. Clair County, Illinois, Glenn Ratcliff, State's Attorney of Cumberland County, Illinois, S. S. Duhamel, State's Attorney of Douglas County, Illinois, Allen E. Walker, State's Attorney of Edwards County, Illinois, W. P. Welker, State's Attorney of Fayette County, Illinois, F. M. Thompson, State's Attorney of Ford County, Illinois, Otis F. Glenn, State's Attorney of Jackson County, Illinois, W. E. Isley, State's Attorney of Jasper County, Illinois, C. R. Patterson, State's Attorney of Moultrie County, Illinois, Charles W. Firke, State's Attorney of Piatt County, Illinois, S. C. Lewis, State's Attor-

ney of Richland County, Illinois, James B. Lewis, State's Attorney of Saline County, Illinois, A. L. Yantis, State's Attorney of Shelby County, Illinois, James Lingle, State's Attorney of Union County, Illinois, and H. H. House, State's Attorney of Washington County, Illinois, and may have the same relief against them and each of them as the plaintiff might or could have had against the said William J. Tyers, State's Attorney of Kane County, Illinois, Albert H. Manus, State's Attorney of Stephenson County, Illinois, Frank T. Sheean, State's Attorney of Jo Daviess County, Illinois, F. A. Ortman, State's Attorney of Livingston County, Illinois, Louis O. Williams, State's Attorney of De Witt County, Illinois, Edmund Burke, State's Attorney of Sangamon County, Illinois, James Mur-
101 phy, State's Attorney of Macoupin County, Illinois, Thomas S. Williams, State's Attorney of Clay County, Illinois, Alexander Wilson, State's Attorney of Alexander County, Illinois, W. F. Spiller, State's Attorney of Franklin County, Illinois, D. T. Hartwell, State's Attorney of Williamson County, Illinois, H. A. Spann, State's Attorney of Johnson County, Illinois, Fred R. Young, State's Attorney of Massac County, Illinois, Charles Webb, State's Attorney of St. Clair County, Illinois, Walter Brewer, State's Attorney of Cumberland County, Illinois, W. Thomas Coleman, State's Attorney of Douglas County, Illinois, Edward A. Schroeder, State's Attorney of Edwards County, Illinois, J. G. Burnside, State's Attorney of Fayette County, Illinois, Oscar H. Wylie, State's Attorney of Ford County, Illinois, W. A. Swartz, State's Attorney of Jackson County, Illinois, Charles D. Fithian, State's Attorney of Jasper County, Illinois, J. K. Martin, State's Attorney of Moultrie County, Illinois, Thomas J. Kastel, State's Attorney of Piatt County, Illinois, H. G. Morris, State's Attorney of Richland County, Illinois, Sam Thompson, State's Attorney of Saline County, Illinois, W. E. Lowe, State's Attorney of Shelby County, Illinois, William D. Lyerle, State's Attorney of Union County, Illinois, and J. Paul Carter, State's Attorney of Washington County, Illinois, in case they had not been succeeded in office as aforesaid.

2. That the defendants, the State Public Utilities Commission, William L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw, and Frank H. Funk, as Members of and constituting the State Public Utilities Commission of Illinois; Patrick J. Lucey, Attorney General of Illinois; Maclay Hoyne, State's Attorney of Cook County, Illinois; Louis A. Busch, State's Attorney of Champaign County, Illinois; Harry B. Hershey, State's Attorney of Christian County, Illinois; Robert Hammond, State's Attorney of Coles County, Illinois; Patrick H. O'Donnell, State's Attorney of Boone County, Illinois; Joseph B. Crowely, State's Attorney of Crawford County, Illinois; Lowell B. Smith, State's Attorney of De Kalb County, Illinois; Charles W. Hadley, State's Attorney of Du Page County,
102 Illinois; Byron Piper, State's Attorney of Effingham County, Illinois; James W. Kern, State's Attorney of Iroquois County, Illinois; Wayne H. Dyer, State's Attorney of Kankakee County, Illinois; George S. Wiley, State's Attorney of La Salle County, Illinois; Harry Edwards, State's Attorney of Lee County, Illinois; C. E.

Smith, State's Attorney of Logan County, Illinois; Miles K. Young, State's Attorney of McLean County, Illinois; Jesse L. Deck, State's Attorney of Macon County, Illinois; James M. Bandy, State's Attorney of Madison County, Illinois; Henry E. Jacobs, State's Attorney of Marshall County, Illinois; Edmund P. Nischwitz, State's Attorney of Mason County, Illinois; J. Earl Major, State's Attorney of Montgomery County, Illinois; W. J. Emerson, State's Attorney of Ogle County, Illinois; C. B. McNemar, State's Attorney of Peoria County, Illinois; E. E. Black, State's Attorney of Tazewell County, Illinois; John H. Lewman, State's Attorney of Vermilion County, Illinois, Joe A. Pearce, State's Attorney of White County, Illinois; Robert W. Martin, State's Attorney of Will County, Illinois; William Johnson, State's Attorney of Winnebago County, Illinois; Ernst J. Henderson, State's Attorney of Woodford County, Illinois; S. N. Finn, State's Attorney of Marion County, Illinois; S. A. Warden, State's Attorney of Perry County, Illinois; John W. Browning, State's Attorney of Pope County, Illinois; C. S. Miller, State's Attorney of Pulaski County, Illinois; and Alfred D. Reiss, State's Attorney of Randolph County, Illinois, may be required to make full and true answer to this supplemental bill (but not under oath, answer under oath being hereby expressly waived).

103 3. That the plaintiff may have the relief hereinbefore prayed in the original bill of complaint filed herein on the 20th day of November, 1916, reference to which is hereby made the same as though set forth herein in full, and the prayer for relief in which said original bill is hereby reiterated herein in full, and such other and further relief in the premises as to your Honors may seem meet.

The plaintiff prays not only a writ of injunction conformable to the prayer, but also that a subpœna of the United States of America issue out of and under the seal of this Honorable Court directed to the defendants Charles L. Abbott, State's Attorney of Kane County, Illinois, Harry C. Tear, State's Attorney of Jo Daviess County, Illinois, Charles H. Green, State's Attorney of Stephenson County, Illinois, John H. McFadden, State's Attorney of Livingston County, Illinois, Grover Cleveland Hoff, State's Attorney of De Witt County, Illinois, C. F. Mortimer, State's Attorney of Sangamon County, Illinois, Victor H. Hemphill, State's Attorney of Macoupin County, Illinois, H. W. Shriner, State's Attorney of Clay County, Illinois, Leslie L. Wilbourn, State's Attorney of Alexander County, Illinois, Roy C. Martin, State's Attorney of Franklin County, Illinois, R. R. Fowler, State's Attorney of Williamson County, Illinois, O. R. Morgan, State's Attorney of Johnson County, Illinois, Walter Roberts, State's Attorney of Massac County, Illinois, Hubert E. Schaumleffel, State's Attorney of St. Clair County, Illinois, Glenn Ratcliff, State's Attorney of Cumberland County, Illinois, S. S. Duhamel, State's Attorney of Douglas County, Illinois, Allen E. Walker, State's Attorney of Edwards County, Illinois, W. P. Welker, State's Attorney of Fayette County, Illinois, F. M. Thompson, State's Attorney of Ford County, Illinois, Otis F. Glenn, State's Attorney of Jackson County, Illinois, W. E. Isley, State's Attorney of Jasper County, Illinois,

C. R. Patterson, State's Attorney of Moultrie County, Illinois, Charles W. Firke, State's Attorney of Piatt County, Illinois, S. C. Lewis, State's Attorney of Richland County, Illinois, James B. Lewis, State's Attorney of Saline County, Illinois, A. L. Yantis,
104 State's Attorney of Shelby County, Illinois, James Lingle, State's Attorney of Union County, Illinois, and H. H. House, State's Attorney of Washington County, Illinois, thereby commanding them and each of them on a day certain therein to be named, to be and appear before this Honorable Court, then and there to answer (but not under oath, answer under oath being hereby expressly waived) all and singular the premises, the- to perform and abide by such order, direction and decree as may be made in the premises, and that on final hearing said order of injunction may be made perpetual, and for such other and further relief as to your Honors may seem meet.

ILLINOIS CENTRAL RAILROAD COMPANY,
(Signed) By FRANK B. BOWES, *Vice-President.*
A. P. HUMBURG,
J. G. DRENNAN,
CALHOUN, LYFORD & SHEEAN &
V. W. FOSTER,
Solicitors,
135 *East* 11*th Place, Chicago, Illinois.*

BLEWETT LEE,
W. T. HORTON,
Of Counsel.

105 COUNTY OF COOK,
State of Illinois, ss:

Frank B. Bowes, being duly sworn, on oath says that he is Vice President of the plaintiff, Illinois Central Railroad Company, and as such is authorized to make this affidavit in its behalf; that he has read the above and foregoing supplemental bill of complaint and is familiar with the facts therein stated, and that all of said facts are true, except those therein stated to be on information and belief, and as to the facts so stated he believes them to be true.

(Signed) FRANK B. BOWES.

Subscribed and sworn to before me this 14 day of December, 1916.

[Seal Albert J. Peterson, Notary Public, Cook County, Ill.]

(Signed) ALBERT J. PETERSON,
Notary Public.

My commission expires Sept. 18, 1917.

Endorsed: Filed Dec. 15, 1916. T. C. MacMillan, Clerk.

106 And on to-wit: the eighteenth day of December, 1916, came the defendants in said entitled cause by their solicitors,

and filed in the clerk's office of said Court, their certain Answer to the Bill and Supplemental Bill. Said Answer is in the words and figures following to-wit:

107 In the District Court of the United States, Northern District of Illinois, Eastern Division.

In Equity. No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff,

v.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Defendants.

Answer of the Defendants to the Bill of Complaint and Supplemental Bill.

These defendants answer said bill of complaint and supplemental bill, as follows:

1. These defendants admit the allegations of the supplemental bill and the allegations of the first paragraph of the bill of complaint, in reference to the names, citizenship, residence and official capacity of the parties, and the incorporation and business of the plaintiff railroad; and they admit that the plaintiff railroad is engaged as a common carrier in the transportation of passengers, as alleged.

2. These defendants admit that this case involves a question which, under the allegations and claims made in the bill, may be considered as arising under the Constitution and laws of the United States and under the Act of Congress of February 4, 1887, entitled,

108 "An Act to regulate commerce," as amended; and they admit that the action is of a civil nature and that the amount involved is in excess of $3,000, exclusive of interest and costs. But these defendants deny that the passenger fares which are sought to be put in force, in so far as they relate to intrastate travel within the State of Illinois and exceed the maximum of two cents a mile fixed by the statute of that State, are reasonable and just, or that the Interstate Commerce Commission, in the full exercise of rightful jurisdiction, has held such fares to be reasonable and just; and they deny that the Interstate Commerce Commission has any power or jurisdiction to fix the fares to be charged for the carriage of passengers in intrastate travel within the State of Illinois, or to impose such fares upon the people of the State of Illinois, or to authorize or order the carriers to do so.

3. These defendants admit that for some years prior to July 1, 1907, the plaintiff generally charged and collected for the transportation of passengers upon said railroad, between points in said State, fares upon the basis of 3 cents per mile for adult passengers and 1½ cents per mile for passengers under 12 years of age. They admit the passage by the General Assembly of the State of Illinois of an Act

entitled, "An Act to establish and regulate the maximum rate of charges for the transportation of passengers by corporations or companies operating or controlling railroads in part or in whole in this State, and to provide penalties for the violation of the provisions thereof, and repealing all Acts and parts of Acts in conflict herewith," which was approved by the Governor on May 27, 1907, and became effective July 1, 1907, and is sometimes known and described
109 as the "Maximum Rate of Charges" law; and these defendants say that the first section of said Act, as originally enacted, reads as follows:

"Section 1. Be it enacted by the People of the State of Illinois, represented in the General Assembly: That it shall hereafter be unlawful for any corporation or company engaged in the carriage of passengers upon any railroad or railroads between points in this State to charge in excess of 2 cents per mile for the carriage of adult passengers, where any passenger has purchased a ticket entitling him to carriage or in excess of one cent per mile for the carriage of a passenger under 12 years of age, where such passenger has purchased a ticket entitling him to carriage: Provided, that the charge in no case shall be less than 5 cents, and in determining the charge, fractions of less than one-half mile shall be disregarded and all other fractions counted as one mile. If any passenger shall have failed to purchase a ticket entitling him to carriage, a rate of 3 cents per mile may be charged and collected."

These defendants further say that the first section of said Act as originally enacted remained in force until it was amended by an Act of the General Assembly of the State of Illinois, approved June 27, 1913, in force July 1, 1913, whereby the following clause was added thereto:

"and if any passenger under 12 years of age shall have failed to purchase a ticket entitling him to carriage, a rate of 1½ cents per mile may be charged and collected;"

and that the first section of said Act as thus amended has since remained and is now in full force and effect.

These defendants further say that the second section of said Act, as amended in 1907, is still in force and reads as follows:

"Section 2. For any violation of the provisions of this Act by any such corporation or company, its agents or employe, such corporation or company shall forfeit and pay to the State of Illinois a penalty of not less than twenty-five nor more than one hundred dollars for every such violation, to be recovered by suit brought in the name of the State of Illinois by the Attorney General
110 of the State, in any court of competent jurisdiction in any county into or through which said corporation or company runs or passes, or by the State's Attorney of any county through which said corporation or company runs or passes. Where such penalty is recovered in a suit brought by a State's Attorney, as provided by this Act, there shall be recovered, in addition thereto, the sum of ten dollars as compensation for said prosecuting Attorney."

These defendants admit that the plaintiff, in obedience to said statute, did put in force and since July 1, 1907, has generally charged and collected the passenger fares provided in said statute.

4. These defendants admit that from July 1, 1907, to December 1, 1914, the passenger fares between St. Louis, Missouri, and points in Illinois upon the plaintiff's line were upon the basis of 2 cents per mile, plus bridge toll, and that during the same period the basis of 2 cents per mile for adult passengers was also applied between all points in Illinois; and these defendants aver that during that period no complaint was made that the plaintiff was unjustly discriminating against or in favor of St. Louis in the matter of such passenger fares.

These defendants further admit that on December 1, 1914, the plaintiff advanced the passenger fares between St. Louis, Missouri, and certain points on its line in Illinois to the basis of 2½ cents per mile, plus the bridge toll, without making any corresponding advance in passenger fares between points wholly within the State of Illinois; and these defendants say that the discrimination complained of by the Business Men's League of St. Louis in the matter of passenger fares, resulted from this voluntary action of the plaintiff and from like action by other railroads; and that
111 such action, if it resulted in any unjust discrimination against St. Louis, was unlawful, and cannot be made the basis for disturbing the rates lawfully established by the State of Illinois for intrastate travel within that State, nor can it be made the ground for any relief to said plaintiff in equity.

5. These defendants admit that on the 14th day of June, 1915, the Business Men's League of St. Louis filed its complaint with the Interstate Commerce Commission against the plaintiff and other railroads, in the proceeding entitled, "Business Men's League of St. Louis v. The Atchison, Topeka & Santa Fe Railway Company et al.," Docket No. 8083 of the Interstate Commerce Commission; and these defendants say that the defendants named in said complaint included many, but not all, of the railroads engaged in the common carriage of passengers within the State of Illinois; and that the said complaint of the Business Men's League of St. Louis charged the defendant railroads with unjust discrimination against St. Louis in the matter of passenger fares and freight rates between St. Louis and Illinois points, as compared with passenger fares and freight rates between points within Illinois.

These defendants further admit that the plaintiff and other carriers, defendants in that proceeding, answered said complaint, formally denying the unjust discrimination charged, and that the Chicago Association of Commerce, the State Public Utilities Commission of Illinois, the East Side Manufacturers' Association, the Keokuk Industrial Association, and the Attorney General, on behalf of the State of Illinois and the People of the State of Illinois, intervened in said proceeding, and set forth, among other things,
112 their respective claims and objections, in general as briefly (but not fully) stated in the bill of complaint.

And these defendants, upon information and belief, charge that

the said proceeding before the Interstate Commerce Commission was not begun in good faith for the purpose of removing an unjust discrimination against St. Louis, but was in fact begun by the complainant therein at the instance of the nominal defendants thereto, or some of them, who were charged with the unjust discrimination complained of, and that the Business Men's League of St. Louis was merely their instrument in starting a proceeding instigated by the carriers themselves and designed by them to bring about an advance of passenger fares and freight rates in Illinois, for their own benefit.

6. These defendants admit that said complaint was heard by the Interstate Commerce Commission, and that the complainant, the defendants and the interveners appeared at said hearing and offered evidence, filed briefs and participated in the oral argument; and that thereafter, on the 12th day of July, 1916, the Interstate Commerce Commission filed its report and issued its order, and that a copy of said report and order is attached as "Exhibit A" to the bill of complaint. And these defendants say that the participation as aforesaid of the Attorney General of Illinois and of the State Public Utilities Commission of Illinois in said proceeding was proper and in accordance with the rule of comity which applies to the relations between the State and National Governments; but they deny that such participation makes the finding or order of the Interstate Commerce Commission res judicata, or binds the State of Illinois
113 in any matter relating to the validity or enforcement of its own laws.

7. These defendants admit that on September 6, 1916, the Interstate Commerce Commission made its order (a copy of which is "Exhibit B" to the bill of complaint), and thereby postponed the effective date of the order of July 12, 1916, until the 16th day of November, 1916.

8. These defendants admit that on October 11, 1916, the Interstate Commerce Commission made its order (a copy of which is "Exhibit C" to the bill of complaint), and thereby postponed the effective date of its order of July 12, 1916, until the further order of that commission.

9. These defendants admit that on the 17th day of October, 1916, the Interstate Commerce Commission made its supplemental report and order, a copy of which is attached as "Exhibit D" to the bill of complaint.

These defendants say that the orders of September 6, 1916, and October 11, 1916, and the supplemental report and order of October 17, 1916, were made without previous notice to these defendants (interveners in that proceeding), and without any further hearing after the making of the original report and order of July 12, 1916; and these defendants are not advised whether said supplemental report and order made by the Interstate Commerce Commission on October 17, 1916, were made by said commission on its own initiative or on an ex parte application by the complainant in that proceeding or by the defendant carriers; but these defendants say that the said order of October 17, 1916, is not based upon the original

complaint, but goes beyond the matters therein complained of and the relief prayed, and that the Interstate Commerce Com-
114 mission, after the entry of its order of July 12, 1916, was without jurisdiction or power in that proceeding to make a supplemental report and to enter a further order without notice to these defendants as interveners therein and without an opportunity to them to be heard, and by such report and order to extend and enlarge the relief afforded both beyond the scope of its original order and beyond the scope of the complaint upon which the proceeding was based. And these defendants deny that they are in any way bound by the conclusions or directions contained in said supplemental report or order.

10. These defendants say that since the filing of the bill of complaint herein the plaintiff and many of the other railroad carriers in the State of Illinois have filed with the State Public Utilities Commission of Illinois new tariffs of passenger fares, and defendants believe that the tariffs enumerated in plaintiff's supplemental bill were so filed; that said tariffs are quite numerous, extensive and complex, and these defendants have not as yet had sufficient opportunity for examination thereof to ascertain their full scope and purpose; but these defendants believe that said tariffs attempt to fix fares for the carriage of passengers between all points upon said railroads in Illinois, in intrastate travel wholly within this State, upon a basis of not less than 2.4 cents per mile, on and after January 1, 1917; and these defendants say that any tariff of passenger fares which said plaintiff may seek to apply to the transportation of passengers between points in the State of Illinois, in intrastate travel, which fixes fares for such transportation upon the basis of 2.4 cents per mile, or upon any basis in excess of 2 cents per mile, will
115 be unlawful, unjust and unreasonable, and in violation of the said statute of the State of Illinois known as the "Maximum Rate of Charges" Law.

11. These defendants admit that the plaintiff, as a common carrier of passengers in Illinois, is subject to the provisions of the Act of the General Assembly of the State of Illinois, entitled "An Act to provide for the regulation of public utilities," approved June 30, 1913, and in force January 1, 1914; that said Act is known as the Public Utilities Law, and is part of chapter 111*a* of the Revised Statutes of Illinois, 1915-1916; and that said Act contains provisions of the general purport stated in the eleventh paragraph of plaintiff's bill of complaint; but these defendants refer to the Act itself for the full intent and meaning thereof.

These defendants say that by the terms of section 79 of said Public Utilities Law it is made the duty of the State Public Utilities Commission of Illinois to see that the provisions of the Constitution and statutes of said State affecting public utilities, the enforcement of which is not specifically vested in some other officer or tribunal, are enforced and obeyed, and to see that violations thereof are promptly prosecuted and penalties due the State therefor recovered and collected; they say further that the Attorney General is the chief law officer of the State; and that the Attorney General throughout the

State and the State's attorneys in their respective counties are authorized by law to sue for and recover the penalties provided for violation of the Maximum Rate of Charges Law; but these defendants deny that they have threatened the plaintiff, its officers, agents or employees, with prosecutions or suits, as alleged in said bill of
116 complaint.

12. These defendants admit that the Attorney General and the State's attorneys will begin such prosecutions as may be required by their lawful duties under the Constitution and laws of the State of Illinois and within the Constitution of the United States, in case the plaintiff violates the Maximum Rate of Charges Law or the Public Utilities Law, or any other of the laws of the State of Illinois; and these defendants deny that said laws, as to the rights of the plaintiff herein, are wholly unconstitutional or void, or that the plaintiff herein or its employees will be thereby subjected to innumerable, enormous and excessive fines, penalties or imprisonments, or that they will be intimidated or prevented from testing in good faith in this court the validity of said laws.

13. These defendants deny that the State Public Utilities Commission of Illinois has refused or will refuse to receive or file any tariffs or schedules of passenger fares presented to said commission by the plaintiff; on the contrary, they say that since the filing of the bill of complaint herein the proposed new passenger tariffs of the plaintiff have been received and filed, and that the further disposition of said tariffs remains to be determined by the State Public Utilities Commission of Illinois, in accordance with its duties under the law.

14. These defendants, while they admit that any violation by the plaintiff of the Maximum Rate of Charges Law may result in suits against the plaintiff for the penalties thereby incurred, deny that the plaintiff will be thereby subjected to vexatious and excessive penalties, or that it will be thereby deprived of its right to collect just, reasonable and non-discriminatory fares, or that it will thereby suffer great and irreparable injury.

117 These defendants deny the conclusions of the plaintiff, and particularly—

(1) They deny that the said Maximum Rate of Charges Law is null and void, because in conflict with the said report of the Interstate Commerce Commission of July 12, 1916, and the said supplemental report and order of October 17, 1916, or for any other reason; they deny that said Maximum Rate of Charges Law is a burden upon or a direct interference with interstate commerce; and they deny that said law is in violation of paragraph third of section 8 of article I of the Constitution of the United States, or in violation of any of the provisions of the Constitution of the United States, or that it is in violation of the Act to regulate commerce, or that it has been so found to be by the said reports and order of the Interstate Commerce Commission.

(2) They deny that section 2 of the Maximum Rate of Charges Law and sections 76 and 77 of the Public Utilities Law of Illinois, or any of said sections, are void, or that they deny to the plaintiff the equal protection of the laws or deprive it of its property without due

process of law, or that they are in any way violative of the Constitution of the United States or of the Fourteenth Amendment thereof.

These defendants further say that they are without knowledge as to the truth of any averments of said bill of complaint which are not hereby specifically admitted, denied or explained.

These defendants further say that the order of the Interstate Commerce Commission made on October 17, 1916, in so far as its terms may be construed to authorize or require the carriers to establish and put in force, or to maintain and apply to the transportation
118 of passengers in intrastate travel between points in the State of Illinois, fares upon a basis of 2.4 cents per mile, or upon any basis in excess of 2 cents per mile, is void, because—

(*a*) It exceeds the power of the Interstate Commerce Commission, as limited by section 1 of the Act to regulate commerce, which provides that the provisions of that Act shall not apply to the transportation of passengers wholly within one State.

(*b*) It conflicts with the said Maximum Rate of Charges Law of Illinois, which is a valid exercise of the police power of the State of Illinois in a matter the control of which has not been surrendered to the federal government.

(*c*) It conflicts with the principle declared by the Supreme Court of the United States, that the reasonableness of intrastate rates is to be determined by considering the intrastate business separately; and in violation of that principle, it attempts to establish passenger fares in Illinois by considering as the sole basis therefor the passenger business between St. Louis and Illinois points.

(*d*) It attempts to limit the power of the State of Illinois to fix reasonable fares for its internal passenger traffic, by the mere action of the carriers in laying an interstate fare across the State's border to St. Louis.

(*e*) It seizes upon a disparity between State and interstate fares, brought about by the voluntary action of the carriers themselves in advancing the interstate fares between St. Louis and Illinois points, and finds therefrom an unjust discrimination, which it makes the basis, not for restoring the interstate fares which have been
119 unlawfully advanced, but for increasing the intrastate fares beyond the maximum lawfully fixed by State authority.

(*f*) The said order of the Interstate Commerce Commission, as construed and applied by the plaintiff and other railroads, creates an undue and unreasonable preference and advantage in favor of St. Louis and against Chicago and other Illinois cities, in that it results in a fare of 2.4 cents a mile for intrastate travel between all points in Illinois and for interstate travel between all points in Illinois and all points in Missouri, whereas the fare for intrastate travel between St. Louis and other Missouri points and between all points in Missouri is left at 2 cents a mile.

(*g*) The proceeding begun before the Interstate Commerce Commission, on the complaint of the Business Men's League of St. Louis, was not brought in good faith to remove an unjust discrimination against interstate commerce, but was instigated by the carriers themselves, and was designed by them to subject every passenger

fare and freight rate for intrastate transportation in Illinois to the control of the Interstate Commerce Commission, in violation of the Act to regulate commerce, and so as to destroy utterly the power of regulation in that regard belonging to the State of Illinois.

(*h*) There was no substantial evidence in the proceedings before the Interstate Commerce Commission to support its order of October 17, 1916, or to sustain its report or supplemental report or the findings upon which its said order is based.

(*i*) There was no substantial evidence in said proceeding on which to base the conclusion that the present interstate passenger fares between St. Louis and Keokuk, on the one hand, and
120 points in Illinois, on the other, are just and reasonable, in so far as they are not in excess of 2.4 cents per mile, plus a reasonable bridge toll for crossing the Mississippi River, nor for the finding that such fares are just and reasonable maximum fares, for the purpose of ending the supposed discrimination found in the original report of the commission.

(*j*) The Interstate Commerce Commission has not found, and there was no substantial evidence before the said commission to support a finding, that the maintenance in Illinois of fares upon a basis lower than the basis for contemporaneous fares between St. Louis and Illinois points has lessened or materially affected the volume of travel between St. Louis and Illinois points or worked any substantial injury to St. Louis or to the Business Men's League of St. Louis; nor was there any such evidence or finding with respect to Keokuk.

(*k*) The bill of complaint herein is one of a series of bills of like character, filed severally on behalf of the railroads which were defendants in the said proceeding before the Interstate Commerce Commission; and the findings of the Interstate Commerce Commission as to the existence and occasion of unjust discrimination, undue and unreasonable preferences and advantages, and undue and unreasonable prejudice and disadvantages, as contained in the said report and supplemental report, are conclusions reached by considering the defendant carriers in that proceeding as a unit, and not as separate railroads, whose relations, if any, to the matters complained of are distinct and dissimilar; and there is no substantial evidence
121 in said proceeding to support the said conclusions as to all of said railroads or as to the railroad of the plaintiff.

(*l*) The said report and supplemental report of the Interstate Commerce Commission, and its order of October 17, 1916, are so vague, indefinite, general and uncertain in the findings and directions thereof, that it is not possible to determine therefrom which of said carriers are deemed to be guilty of the matters complained of, nor to what intrastate fares the order is intended to apply.

(*m*) The evidence on behalf of the complainant itself showed that the commercial and business interests which it represented were opposed to any increase in the intrastate fares in Illinois; the conclusion is inevitable that there was no unjust discrimination or undue prejudice or disadvantage to St. Louis, and the findings of the Inter-

state Commerce Commission are contrary to the evidence and its said order is arbitrary and unjust.

(*n*) The authority of the Interstate Commerce Commission has been exercised in such an unreasonable and arbitrary manner that its order, without necessity or justification, obstructs and interferes with the State of Illinois in the due exercise of the lawful powers of said State.

(*o*) The said order, as interpreted and attempted to be applied by the plaintiff and other carriers, is unreasonable in that it attempts to make the fares from Illinois points to a single point across the border of the State the controlling factor in fixing intrastate fares throughout the State of Illinois, so as to defeat the 2-cent maximum fare law of Illinois, regardless of the facts that intrastate fares based upon a maximum of 2 cents a mile are in force, not only in Illinois,
122 but also in Ohio, Missouri, Indiana, Michigan, Wisconsin, Oklahoma, Minnesota, Iowa, Nebraska and Kansas, and that such intrastate fares are in effect upon the same and other railroads, so far as they operate in the States named, and that the density of travel, the population per square mile, and the population per mile of railroad in Illinois exceed those of any other of the States named except Ohio.

(*p*) The bases upon which the conclusions and findings of the Interstate Commerce Commission were reached are fundamentally wrong and contrary to law.

These defendants further say that the tariffs of the plaintiff, whereby it seeks to put into effect fares for the carriage of passengers in intrastate travel in Illinois, upon the basis of 2.4 cents per mile, or upon any basis in excess of 2 cents per mile, are unlawful, for the following reasons:

(*a*) The proposed advances in passenger fares in Illinois are based upon the order of the Interstate Commerce Commission, which is void, for the reasons above stated.

(*b*) The proposed fares exceed the maximum prescribed by the State of Illinois in the said Maximum Rate of Charges Law.

(*c*) The existing passenger fares charged on intrastate travel in Illinois are just and reasonable fares.

(*d*) The existing passenger fares charged on intrastate travel in Illinois are not unjustly discriminatory, as compared with the just and reasonable fares for travel between St. Louis and Illinois points.

(*e*) The proposed tariffs increase the fares for travel between points in Illinois remote from Chicago and from St. Louis, which are not involved in the claims of unjust discrimination made
123 in the complaint of the Business Men's League of St. Louis.

(*f*) The proposed tariffs carry advances in fares which are not involved in the discrimination found to exist in the report of the Interstate Commerce Commission.

(*g*) The proposed tariffs in many instances contain fares from points in Illinois to St. Louis and East St. Louis (or to Keokuk) by roundabout and impracticable routes, which do not and will not carry the travel, and such fares exceed the fares from the same points to St. Louis and East St. Louis (or to Keokuk) by other and more

direct lines on which the travel moves; and these defendants charge that such paper fares are not made in good faith, but are inserted in said tariffs for the purpose of enabling the plaintiff to advance beyond 2 cents a mile the local intrastate rate between intermediate points on these roundabout routes, and to claim in justification that such advances are made in obedience to the order of the Interstate Commerce Commission.

(*h*) The fares proposed in said tariffs are unjust and unreasonable and in some instances exceed even the basis of 2.4 cents a mile.

These defendants further say that the order of the Interstate Commerce Commission entered on October 17, 1916, is so vague, indefinite, general and uncertain that it cannot be enforced against the plaintiff or the other parties to the said proceeding; that the plaintiff is under no compulsion to comply with said order and cannot be subjected to any prosecution or penalty for failure to do so.

These defendants further say that it is within the power of the plaintiff to comply with the said order of the Interstate Com-
124 merce Commission without increasing any passenger fare for intrastate travel in Illinois.

These defendants further say that the Interstate Commerce Commission is a necessary and indispensable party to this proceeding, and that the Court cannot proceed to a final decree herein without the presence of the Interstate Commerce Commission as a party.

These defendants, therefore, pray that the bill of complaint and the supplemental bill of complaint herein be dismissed for want of equity; that this answer be taken as the cross-bill or counterclaim of these defendants against the said plaintiff and the United States of America and the Interstate Commerce Commission, and that they be required, within the time fixed by law and the rules and practice of this Court, to answer the same, but not under oath, answer under oath being waived.

These defendants further pray that the said order of the Interstate Commerce Commission entered on October 17, 1916 (except in so far as it vacates the previous order of July 12, 1916), be set aside and annulled, and that pending the final determination of this cause, the said orders be suspended; that upon the final hearing hereof, the parties hereto, other than these answering defendants, may be permanently enjoined and restrained from complying with, enforcing or attempting to enforce the provisions of said orders; and that these defendants may have such other and further relief in the premises as to the Court shall seem meet.

125 STATE PUBLIC UTILITIES COMMISSION
OF ILLINOIS,
WILLIAM L. O'CONNELL,
OWEN P. THOMPSON,
RICHARD YATES,
WALTER A. SHAW AND
FRANK H. FUNK,
As Members of and Constituting the State
Public Utilities Commission of Illinois,

LESLIE L. WILBOURN,
(Successor to Alexander Wilson),
State's Attorney of Alexander County, Illinois,
FRANK A. OAKLEY,
(Successor to P. H. O'Donnell)
State's Attorney of Boone County, Illinois,
LOUIS A. BUSCH,
State's Attorney of Champaign County, Illinois,
HARRY B. HERSHEY,
State's Attorney of Christian County, Illinois,
H. W. SHRINER,
(Successor to Thomas S. Williams),
State's Attorney of Clay County, Illinois,
ROBERT G. HAMMOND,
State's Attorney of Coles County, Illinois,
MACLAY HOYNE,
State's Attorney of Cook County, Illinois,
JOSEPH B. CROWLEY,
State's Attorney of Crawford County, Illinois,
GLENN RATCLIFF,
(Successor to Walter Brewer),
State's Attorney of Cumberland County, Illinois,
LOWELL B. SMITH,
State's Attorney of DeKalb County, Illinois,
GROVER C. HOFF,
(Successor to L. O. Williams),
State's Attorney of DeWitt County, Illinois,
W. THOS. COLEMAN,
State's Attorney of Douglas County, Illinois,
CHARLES W. HADLEY,
State's Attorney of DuPage County, Illinois,
EDWARD A. SCHROEDER,
State's Attorney of Edwards County, Illinois,
BYRON PIPER,
State's Attorney of Effingham County, Illinois,
W. P. WALKER,
(Successor to J. G. Burnside),
State's Attorney of Fayette County, Illinois,
OSCAR H. WYLIE,
State's Attorney of Ford County, Illinois,
ROY C. MARTIN,
(Successor to W. F. Spiller),
State's Attorney of Franklin County, Illinois,
JAMES W. KERN,
State's Attorney of Iroquois County, Illinois,
OTIS F. GLENN,
(Successor to W. A. Schwartz),
State's Attorney of Jackson County, Illinois,
WILLIAM E. ISLEY,
(Successor to Charles D. Fithian),
State's Attorney of Jasper County, Illinois.

HARRY G. TEAR,
(Successor to Frank T. Sheean),
State's Attorney Jo Daviess County, Illinois,
C. R. MORGAN,
(Successor to H. A. Spann),
State's Attorney of Johnson County, Illinois,
CHARLES L. ABBOTT,
(Successor to William J. Tyers),
State's Attorney of Kane County, Illinois,
WAYNE H. DYER,
State's Attorney of Kankakee County, Illinois,
GEORGE S. WILEY,
State's Attorney of LaSalle County, Illinois,
HARRY EDWARDS,
State's Attorney of Lee County, Illinois,
JOHN H. McFADDEN,
(Successor to F. A. Ortman),
State's Attorney of Livingston County, Illinois,
C. EVERETT SMITH,
State's Attorney of Logan County, Illinois,
JESSE L. DECK,
State's Attorney of Macon County, Illinois,
VICTOR HEMPHILL,
(Successor to James H. Murphy),
State's Attorney of Macoupin County, Illinois,
JOSEPH P. STREUBER,
(Successor to James M. Bandy),
State's Attorney of Madison County, Illinois,
S. N. FINN,
State's Attorney of Marion County, Illinois,
WALLACE J. BLACK,
(Successor to Henry E. Jacobs),
State's Attorney of Marshall County, Illinois,
EDMUND P. NISCHWITZ,
State's Attorney of Mason County, Illinois,
WALTER ROBERTS,
(Successor to Fred R. Young),
State's Attorney of Massac County, Illinois,
MILES K. YOUNG,
State's Attorney of McLean County, Illinois,
J. EARL MAJOR,
State's Attorney of Montgomery County, Illinois,
126 C. R. PATTERSON,
(Successor to J. K. Martin),
State's Attorney of Moultrie County, Illinois,
WILLIAM J. EMERSON,
State's Attorney of Ogle County, Illinois,
C. E. McNEMAR,
State's Attorney of Peoria County, Illinois,

NELSON B. LAYMAN,
(Successor to S. A. Wardan),
State's Attorney of Perry County, Illinois,
CHARLES W. FIRKE,
(Successor to Thomas J. Kastel),
State's Attorney of Piatt County, Illinois,
JOHN W. BROWNING,
State's Attorney of Pope County, Illinois,
C. S. MILLER,
State's Attorney of Pulaski County, Illinois,
A. D. RIESS,
State's Attorney of Randolph County, Illinois,
S. C. LEWIS,
(Successor to H. G. Morris),
State's Attorney of Richland County, Illinois,
SAM THOMPSON,
State's Attorney of Saline County, Illinois,
C. F. MORTIMER,
(Successor to Edmund Burke),
State's Attorney of Sangamon County, Illinois,
A. L. YANTIS,
(Successor to W. E. Lowe),
State's Attorney of Shelby County, Illinois,
HUBERT E. SCHAUMLEFFEL,
(Successor to Charles Webb),
State's Attorney of St. Clair County, Illinois,
CHARLES H. GREEN,
(Successor to Albert H. Manus),
State's Attorney of Stephenson County, Illinois,
E. E. BLACK,
State's Attorney of Tazewell County, Illinois,
JAMES LINGLE,
(Successor to William D. Lyerle),
State's Attorney of Union County, Illinois,
JOHN H. LEWMAN,
State's Attorney of Vermilion County, Illinois,
H. H. HOUSE,
(Successor to J. Paul Carter),
State's Attorney of Washington County, Illinois,
JOE A. PEARCE,
State's Attorney of White County, Illinois,
ROBERT W. MARTIN,
State's Attorney of Will County, Illinois,
R. R. FOWLER,
(Successor to D. T. Hartwell),
State's Attorney of Williamson County, Illinois,
WILLIAM JOHNSON,
(Successor to Gust E. Johnson),
State's Attorney of Winnebago County, Illinois,
ERNEST J. HENDERSON,
State's Attorney of Woodford County, Illinois,

By PATRICK J. LUCEY,
Attorney General of Illinois,
PATRICK J. LUCEY,
Attorney General of Illinois,
TIMOTHY F. MULLEN,
Assistant Attorney General,
JAMES H. WILKERSON,
Assistant Attorney General,
Solicitors and of Counsel for Defendants.

[Endorsed:] Filed Dec. 18, 1916. T. C. MacMillan, Clerk.

127 And on to-wit: the twenty-eighth day of December, 1916, there was filed in the Clerk's office of said Court, in said entitled cause, the certain Reply of Plaintiff to Answer of the Defendants to the Bill of Complaint and Supplemental Bill. Said Reply is in the words and figures following, to-wit:

128 In the District Court of the United States, Northern District of Illinois, Eastern Division.

In Equity. No. 753.

ILLINOIS CENTRAL R. R. COMPANY, Plaintiff,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Defendants.

Reply of Plaintiff to "Answer of the Defendants to the Bill of Complaint and Supplemental Bill."

Now comes the plaintiff, by its solicitors, and for reply to the matters and things set forth in the "Answer of the defendants to the bill of complaint and supplemental bill" as grounds for affirmative relief and which matters and things and the affirmative relief prayed for in said answer are in the nature of and are hereby referred to as a cross bill, says:

1. That this honorable court is without jurisdiction to suspend, set aside, annul or enjoin, in whole or in part, said order of the Interstate Commerce Commission of October 17, 1916, referred to and complained of in said cross bill.

The said order was entered in a proceeding before the Interstate Commerce Commission, duly instituted, conducted and concluded under the Act to Regulate Commerce as amended, upon the petition filed with said Commission by the Business Men's League of St. Louis as fully appears by the report of said Commission of July 12, 1916, its order of September 6, 1916, its order of October 11, 1916, and its supplemental report and order of October 17, 1916, all of which are made a part of the plaintiff's original bill and there marked Exhibits "A," "B," "C" and "D," respectively, and which exhibits by refer-

ence are likewise made a part of this reply; that the Business Men's League of St. Louis is a corporation duly organized and existing under the laws of the State of Missouri, and has its domicile and residence in the City of St. Louis, and State of Missouri, in the Eastern Division of the Eastern District of Missouri; that in and by an Act of Congress, entitled "An Act making appropriations to supply urgent deficiencies in appropriations for the fiscal year 1913, and for other purposes," approved October 22, 1913, 38 St. L. 219, it is, among other things, provided that:

"The venue of any suit hereafter brought to enforce, suspend, or set aside, in whole or in part, any order of the Interstate Commerce Commission shall be in the judicial district wherein is the residence of the party or any of the parties upon whose petition the order was made, except that where the order does not relate to transportation or is not made upon the petition of any party, the venue shall be in the district where the matter complained of in the petition before the Commission arises, * * * "

That there was no petitioner in said proceeding before the Interstate Commerce Commission who resided, or who now resides within the jurisdiction of this court. All of which fully appears in the records in this cause now before this court.

2. The plaintiff denies the allegations in each paragraph in said cross bill to the effect that the Interstate Commerce Commission did not have jurisdiction of the parties and matters involved in said proceeding wherein said orders complained of were entered; on the contrary, the plaintiff alleges that the matters and things complained of by the Business Men's League of St. Louis in its said petition before the Interstate Commerce Commission and the parties defendant thereto and the parties intervening in said proceeding were and each of them was, within the jurisdiction of the Interstate Commerce Commission, and within the scope of its powers under the Act to Regulate Commerce as amended, and that its findings and conclusions of fact made and set forth in its said report, supplemental report and order of October 17, 1916, are and each of them is final and conclusive and that the same were supported by substantial evidence, and that the said proceedings before the Interstate Commerce Commission were in conformity to law.

And plaintiff as to each and all of the averments in said answer, charging, in substance, that the said order of October 17, 1916, is unreasonable, that the fares prescribed thereby are unjust and unreasonable, that the said interstate fares existing prior to said orders did not discriminate as found by said Commission, that the fares charged on intrastate travel in Illinois are not unjustly discriminatory, and that the fares permitted by said order create an undue and unreasonable preference in favor of St. Louis and against Chicago and other Illinois cities, says that the said Public Utilities Commission of Illinois and the said Attorney General of Illinois, representing said State, became and were parties to said proceeding, and that all such matters were issues before said Commission and determined adversely to the contentions of defendants, and the plaintiff denies that this Court has jurisdiction herein to consider the same.

3. And the plaintiff specifically denies each and every other allegation in said "Answer of the defendants to the bill of complaint and supplemental bill" not in this reply specifically admitted or denied, and the plaintiff prays the same advantage of this reply as if it had moved to dismiss said cross bill on the ground that it does not state a cause of action against the plaintiff.

Wherefore the plaintiff prays that the relief prayed by the defendants be denied and that their cross bill be dismissed.

ILLINOIS CENTRAL RAILROAD COMPANY,
By A. P. HUMBURG,
J. G. DRENNAN,
V. W. FOSTER,
CALHOUN, LYFORD & SHEEAN,
Its Solicitors.

BLEWETT LEE,
W. S. HORTON,
Of Counsel.

(Endorsed:) Filed Dec. 28, 1916. T. C. MacMillan,
129 Clerk.

And on to-wit: the second day of January, 1917, there was filed in the clerk's office of said Court, in said entitled cause, the certain Plea and Answer of the Interstate Commerce Commission to the answer in the nature of a cross-bill filed by the State Public Utilities Commission of Illinois and Others. Said Plea and Answer (omitting Exhibits) is in words and figures following, to-wit:

130 In the District Court of the United States, Northern District of Illinois, Eastern Division.

No. 752.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

v.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, et al.

No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY

v.

SAME.

No. 754.

CHICAGO & ALTON RAILROAD COMPANY

v.

SAME.

No. 755.

CHICAGO GREAT WESTERN RAILROAD COMPANY

v.

SAME.

No. 756.

MICHIGAN CENTRAL RAILROAD COMPANY

v.

SAME.

No. 757.

CHICAGO & ILLINOIS MIDLAND RAILWAY

v.

SAME.

No. 758.

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY

v.

SAME.

131 No. 759.

WM. J. JACKSON, Receiver Chicago & Eastern Illinois Railroad,

v.

SAME.

No. 760.

JACOB M. DICKINSON, Receiver Chicago, Rock Island & Pacific Railway Company,

v.

SAME.

No. 761.

WALTER L. ROSS, Receiver Toledo, St. Louis & Western Railroad Company,

v.

SAME.

No. 762.

CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY

v.

SAME.

No. 763.

LAKE ERIE & WESTERN RAILROAD COMPANY

v.

SAME.

No. 764.

NEW YORK CENTRAL RAILROAD COMPANY

v.

SAME.

No. 765.

BLUFORD WILSON and WM. COTTER, Receivers Chicago, Peoria & St. Louis Railroad Company,

v.

SAME.

No. 766.

WABASH RAILWAY COMPANY

v.

SAME.

132 No. 767.

MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE RAILWAY COMPANY

v.

SAME.

No. 768.

B. F. BUSH, Receiver St. Louis, Iron Mountain & Southern Railway Company, et al.,

v.

SAME.

No. 769.

MINNEAPOLIS & ST. LOUIS RAILROAD COMPANY

v.

SAME.

No. 770.

TOLEDO, PEORIA & WESTERN RAILWAY COMPANY

v.

SAME.

No. 771.

CINCINNATI, INDIANAPOLIS & WESTERN RAILROAD COMPANY

v.

SAME.

No. 772.

LOUISVILLE & NASHVILLE RAILROAD COMPANY

v.

SAME.

No. 773.

MOBILE & OHIO RAILROAD COMPANY

v.

SAME.

No. 774.

SOUTHERN RAILWAY COMPANY

v.

SAME.

133 No. 775.

BALTIMORE & OHIO SOUTHWESTERN RAILROAD COMPANY

v.

SAME.

No. 776.

VANDALIA RAILROAD COMPANY

v.

SAME.

No. 777.

ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY

v.

SAME.

No. 782.

ROCK ISLAND SOUTHERN RAILWAY COMPANY

v.

SAME.

No. 786.

ILLINOIS SOUTHERN RAILWAY COMPANY

v.

SAME.

Plea and Answer of the Interstate Commerce Commission to the Answer in the Nature of a Cross Bill Filed by the State Public Utilities Commission of Illinois and Others.

Now comes the Interstate Commerce Commission by its counsel, said Commission by order of this Court of December 11, 1916, having been made a party to this proceeding, and for plea and answer to the matters and things set forth in the answer of the said Public Utilities Commission of Illinois and others to the bills and supplemental bills of complaint in the above-entitled cause—which matters and things in said answer are in the nature of and are hereinafter referred to as a cross bill—this respondent says:

134 I.

That the said court is without jurisdiction to set aside, annul, or enjoin, in whole or in part, the order of this respondent of October 17, 1916, referred to and complained of in said cross bill, for the following reasons, to-wit:

That the said order was entered in a proceeding before this respondent duly instituted, conducted, and concluded under the act to regulate commerce, as amended, upon a petition filed with this respondent by the Business Men's League of St. Louis, as fully appears by the original and supplemental reports and orders of this respondent hereto attached and made a part hereof, marked, respectively, "Exhibit A," "Exhibit B," "Exhibit C," and "Exhibit D"; that the Business Men's League of St. Louis is a corporation duly organized and existing under the laws of the State of Missouri, and has its domicile and residence in the city of St. Louis, in the State of Missouri, and in the Eastern Judicial District of Missouri; that in and

by an act of Congress entitled "An act making appropriations to supply urgent deficiencies in appropriations for the fiscal year 1913, and for other purposes," approved October 22, 1913, 38 Stat. L. 219, it is, among other things, provided that:

The venue of any suit hereafter brought to enforce, suspend, or set aside, in whole or in part, any order of the Interstate Commerce Commission shall be in the judicial district wherein is the
135 residence of the party or any of the parties upon whose petition the order was made, except that where the order does not relate to transportation or is not made upon the petition of any party, the venue shall be in the district where the matter complained of in the petition before the Commission arises, * * * .

That there was no petitioner in said proceeding before this respondent who resided, or who now resides, within the jurisdiction of this court. All of which fully appears in the records in this cause now before this court.

II.

This respondent states further that the said cross bill does not show that the petitioners therein have or have had, or that either of them has or has had, a vested interest in any rate affected by the said order of this respondent complained of in said cross bill; and that therefore the said petitioners have no right to maintain the said cross bill, nor to receive the affirmative relief, or any part thereof, prayed for with respect to this respondent.

III.

This respondent denies that the said order of October 17, 1916, is not based upon the original complaint, or that it goes beyond the matters therein complained of and the relief therein prayed, or that this respondent was without jurisdiction or power in that proceeding to make the said supplemental report and to enter the said
136 supplemental order therein made and entered.

IV.

This respondent alleges that its order of October 17, 1916, referred to and complained of in the answer of the defendants to the bills of complaint and supplemental bills, was entered in a proceeding before it, duly instituted and concluded under the act to regulate commerce, as amended, upon the petition of the Business Men's League of St. Louis, duly filed on the 14th day of June, 1915, as herein above set forth; that the parties thereto were, and each of them was, within the jurisdiction of this respondent and that the subject matter thereof was within the scope of its administrative powers under the act to regulate commerce, as amended, and that its findings and conclusions of fact as made and set forth in its said reports and orders were, and each of them was, supported by substantial evidence; that the said proceedings before this said respondent were in conformity to law; and that each of its said findings therein is final and conclusive.

V.

This respondent further states that the said cross bill does not set forth any matter or matters of fact cognizable by this court showing, or tending to show, that said order in any way violates any right or rights guaranteed to said defendants in said cross bill, or to any of them, by the Constitution of the United States.

137 VI.

This respondent denies each and every allegation in said cross bill not herein admitted affecting the validity of the said order of October 17, 1916, in whole or in any part thereof; and as its further and full answer to the said cross bill, in so far as it is advised that it is necessary or proper for it to make answer thereunto, this respondent presents its reports and orders hereto annexed and made a part hereof, marked, respectively, "Exhibit A," "Exhibit B," "Exhibit C," and "Exhibit D."

Wherefore this respondent prays that it be hence dismissed.

INTERSTATE COMMERCE COMMISSION,
By JOSEPH W. FOLK, *Its Counsel.*

(Here follow Exhibits A, B, C, and D, being the same as set out in the Bill of Complaint and not copied here.)

(Endorsed:) Filed January 2, 1917. T. C. MacMillan, Clerk.

138 And on to-wit: the second day of January, 1917, there was filed in the clerk's office of said Court, in the cause entitled, The Atchison, Topeka and Santa Fe Railway Company vs. William L. O'Connell, et al. Number 777 a certain Notice and Motion to Strike out. Said Notice and Motion are in the words and figures following, to-wit:

Notice and Motion to Strike Out.

District Court of the United States, Northern District of Illinois, Eastern Division.

In Equity. No. 777.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, Plaintiff,

vs.

WILLIAM L. O'CONNELL et al., Defendants.

Notice of Motion.

To Timothy F. Mullen and James H. Wilkerson, Assistant Attorneys General:

You are hereby notified that at 10 o'clock in the morning of January 2, 1917, we shall bring up before Judge Landis for argument

and disposition the motion of plaintiff to Strike Out, a copy of which is hereto attached.

ROBERT DUNLAP,
T. J. NORTON,
Solicitors for Plaintiff.

GARDNER LATHROP,
S. T. BLEDSOE,
Of Counsel.

1011 Railway Exchange, Chicago, Illinois, December 27, 1916.

139 In the District Court of the United States, Northern District of Illinois, Eastern Division.

In Equity. No. 777.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, Plaintiff,

vs.

WILLIAM L. O'CONNELL et al., Defendants.

Motion of Plaintiff to Strike Out.

First.

In pursuance of Equity Rule No. 21 the plaintiff moves to strike out as impertinent, in that it introduces matter which cannot properly be brought before the court or within its jurisdiction for decision, the following portions of the answer of defendants to the bill for injunction and the supplemental bill herein.

I.

The first paragraph on page 6, as follows:

"And these defendants, upon information and belief, charge that the said proceeding before the Interstate Commerce Commis-
140 sion was not begun in good faith for the purpose of removing an unjust discrimination against St. Louis, but was in fact begun by the complainant therein at the instance of the nominal defendants thereto, or some of them, who were charged with the unjust discrimination complained of, and that the Business Men's League of St. Louis was merely their instrument in starting a proceeding instigated by the carriers themselves and designed by them to bring about an advance of passenger fares and freight rates in Illinois, for their own benefit."

II.

The last paragraph on page 7 and ending near the top of page 8 as follows:

"These defendants say that the orders of September 6, 1916, and October 11, 1916, and the supplemental report and order of October 17, 1916, were made without previous notice to these defendants (interveners in that proceeding), and without any further hearing after the making of the original report and order of July 12, 1916; and these defendants are not advised whether said supplemental report and order made by the Interstate Commerce Commission on October 17, 1916, were made by said Commission on its own initiative or on an ex parte application by the complainant in that proceeding or by the defendant carriers; but these defendants say that the said order of October 17, 1916, is not based upon the original complaint, but goes beyond the matters therein complained of and the relief therein prayed, and that the Interstate Commerce Commission, after the entry of its order of July 12, 1916, was without jurisdiction or power in that proceeding to make a supplemental report and to enter a further order without notice to these defendants as interveners therein and without an opportunity to them to be heard, and by such report and order to extend and enlarge the relief afforded both beyond the scope of its original order and beyond the scope of the complaint upon which the proceeding was based. And
141 these defendants deny that they are in any way bound by the conclusions or directions contained in said supplemental report or order."

III.

Paragraphs (*h*) and (*i*) on page 13 and paragraph (*j*) on page 14, as follows:

"(*h*) There was no substantial evidence in the proceedings before the Interstate Commerce Commission to support its order of October 17, 1916, or to sustain its report or supplemental report or the findings upon which its said order is based.

(*i*) There was no substantial evidence in said proceeding on which to base the conclusion that the present interstate passenger fares between St. Louis and Keokuk, on the one hand, and points in Illinois, on the other, are just and reasonable, in so far as they are not in excess of 2.4 cents per mile, plus a reasonable bridge toll for crossing the Mississippi River, nor for the finding that such fares are just and reasonable maximum fares, for the purpose of ending the supposed discrimination found in the original report of the Commission.

(*j*) The Interstate Commerce Commission has not found, and there was no substantial evidence before the said Commission to support a finding, that the maintenance in Illinois of fares upon a basis lower than the basis for contemporaneous fares between St. Louis and Illinois points has lessened or materially affected the volume of travel between St. Louis and Illinois points or worked any substantial injury to St. Louis or to the Business Men's League of St. Louis; nor was there any such evidence or finding with respect to Keokuk."

142 IV.

Paragraph (*m*) on page 15, as follows:

"The evidence on behalf of the complainant itself showed that the commercial and business interests which it represented were opposed to any increase in the intrastate fares in Illinois; the conclusion is inevitable that there was no unjust discrimination or undue prejudice or disadvantage to St. Louis, and the findings of the Interstate Commerce Commission are contrary to the evidence and its said order is arbitrary and unjust."

V.

Paragraph (*p*) on page 16, as follows:

"The bases upon which the conclusions and findings of the Interstate Commerce Commission were reached are fundamentally wrong and contrary to law."

Second.

The plaintiff moves under Equity Rule No. 30 that the answer of defendants be stricken out because it does not in short and simple terms set out a defense to each claim asserted by plaintiff.

It moves further under said rule that the answer of defendants as a counterclaim be stricken out because the subject matter thereof could not be made the basis of an independent suit by the defendants against this plaintiff.

ROBERT DUNLAP,
T. J. NORTON,
J. L. COLEMAN,
Solicitors for Plaintiff.

GARDINER LATHROP,
S. T. BLEDSOE,
Of Counsel.

1011 Railway Exchange, Chicago, Illinois, December 27, 1916.

[Endorsed:] Filed Jan. 2, 1917. T. C. MacMillan, Clerk.

Received a copy of the foregoing Notice this twenty-seventh day of December, 1916.

J. H. WILKERSON.
TIMOTHY F. MULLEN.

143 And on to-wit: the third day of January, 1917, there was filed in the clerk's office of said Court in said entitled cause the certain Special Appearance and Answer of the United States in words and figures following to-wit:

144 In the District Court of the United States, Northern District of Illinois, Eastern Division.

In Equity. No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff,

v.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Defendants.

Special Appearance and Answer of the United States.

United States of America, made a party defendant by the supplemental bill of complaint of the plaintiff and also made a necessary party by the answer and cross bill or counterclaim of the defendants, State Public Utilities Commission of Illinois et al., now comes, by its counsel, not entering its appearance herein, but appearing specially for the purpose of challenging, and objecting to, the venue in which the bill of complaint and the supplemental bill of complaint of the plaintiff and the answer and the cross bill or counterclaim of the defendants against the plaintiff, and it, are laid, and moves to dismiss the bill of complaint and the supplemental bill of the plaintiff and the answer and cross bill or counterclaim of the defendants for lack of proper venue to hear and determine the cause, or any part
145 thereof, and for no other purpose, and as grounds therefor it shows:

1. The bill of complaint and the supplemental bill of the plaintiff constitute a suit to enforce two orders of the Interstate Commerce Commission of July 12, 1916, and October 17, 1916, respectively, copies of which are attached to the original bill of complaint as Exhibit "A" and Exhibit "D."

2. The answer of the defendants, State Public Utilities Commission of Illinois et al. to the bill of complaint and supplemental bill, the same to be taken "as the cross bill or counterclaim against the said plaintiff and the United States of America," is a suit to suspend or set aside, in whole or in part, the two orders of the Interstate Commerce Commission of July 12, 1916, and October 17, 1916, respectively, copies of which are attached to the original bill of complaint as Exhibit "A" and Exhibit "D."

3. Urgent Deficiencies Act, approved October 22, 1913 (38 Stat., 219), provides:

"The venue of any suit hereafter brought to enforce, suspend or set aside, in whole or in part, any order of the Interstate Commerce Commission shall be in the judicial district wherein is the residence of the party or any of the parties upon whose petition the order was made, except that where the order does not relate to transportation or is not made upon the petition of any party the venue shall be in the district where the matter complained of in the petition before the commission arises, and except that where the order does not relate either to transportation or to a matter so complained of before the

commission the matter covered by the order shall be deemed to arise in the district where one of the petitioners in court has either its principal office or its principal operating office."

4. Said orders of the Interstate Commerce Commission of July 12, 1916, and October 17, 1916, respectively, copies of which are attached to the original bill of complaint as Exhibit "A" and Exhibit "D," were entered in a proceeding before the Interstate Com-
146 merce Commission duly commenced and concluded upon the petition filed with said Commission by the Business Men's League of St. Louis, a certified copy of which said petition will be filed upon the hearing hereof, and it is prayed that the same may be taken and considered as a part hereof, as United States' Exhibit No. 1.

5. Business Men's League of St. Louis is a corporation duly organized and existing under the laws of the State of Missouri, with its principal office, place of business, and place of residence in the City of St. Louis, which is within the judicial district for the Eastern District of Missouri.

6. There was no petitioner in the proceedings before the Interstate Commerce Commission who resided within, or who now resides within, the judicial district for the Northern District of Illinois.

7. As the plaintiff has based its suit on the said two orders of the Interstate Commerce Commission of July 12, 1916, and October 17, 1916, respectively, the suit is one to enforce the same through the injunctive process of the court, and the venue of the suit is not in the United States District Court for the Northern District of Illinois, but is in the United States District Court for the Eastern District of Missouri.

8. As the defendants by their answer and cross bill or counterclaim are undertaking to suspend, or set aside in whole or in part, the said two orders of the Interstate Commerce Commission of July 12, 1916, and October 17, 1916, respectively, through the injunctive process of the court, the venue of the suit is not in the United States District Court for the Northern District of Illinois, but is in the United States District Court for the Eastern District of Missouri.

Wherefore, United States of America prays that an order be entered dismissing the bill of complaint and the supplemental
147 bill, and the answer and cross bill or counterclaim, for want of proper venue in which to maintain the same.

BLACKBURN ESTERLINE,
Special Assistant to the Attorney General.

NORTHERN DISTRICT OF ILLINOIS,
State of Illinois, County of Cook, ss:

Blackburn Esterline, being duly sworn, deposes and says that he is Special Assistant to the Attorney General of the United States, and is assigned to the Enforcement of the Acts to Regulate Commerce; that he has read the foregoing answer of the United States and verily believes the facts therein stated are true.

BLACKBURN ESTERLINE.

Subscribed and sworn to before me this 3rd day of January, A. D. 1917.

JOHN H. R. JAMAR,
Deputy Clerk, United States District Court.

[Endorsed:] Filed Jan. 3, 1917. T. C. MacMillan, Clerk.

148 And on to-wit: the sixth day of January, 1917, in the record of proceedings thereof in said entitled cause before the Hon. Kenesaw M. Landis, District Judge, appears the following entry to-wit:

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

Consolidated Causes.

This day come all of the parties in each of the above entitled causes and on due notice said causes came on to be heard upon the motions to dismiss the cross-bill and counter claim herein, made in the replies of the plaintiffs in the original bill herein and in the answers of the Interstate Commerce Commission and the United States of America, and thereupon the defendants, except the Interstate Commerce Commission and the United States of America enter their motion before the Honorable Kenesaw M. Landis, Judge of the United States District Court, that he deny each of said motions.

And thereupon the court finds that the said Kenesaw M. Landis is the judge of the United States District Court for the Eastern Division, Northern District of Illinois, who under the rule as to the division of work in said court is the Judge to whom is assigned the trial of the equity causes in said Court; and said Court further
149 finds that in his opinion this motion is one which under the provisions of the Act of October 22, 1913, (38 Stat. 219) should be heard by three judges, and thereupon said District Judge, over the objection of said defendants, except the Interstate Commerce Commission and the United States of America, calls to his assistance to hear and dispose of said motion, the Honorable Evan A. Evans, Circuit Judge, and the Honorable George A. Carpenter, District Judge, to which ruling of the District Judge said defendants duly enter their exceptions.

Enter Jan. 6, 1917.

K. M. L.,
Judge U. S. District Court.

150 And on the same day to-wit: the sixth day of January, 1917, in the record of proceedings thereof in said entitled cause, before the Hon. Kenesaw M. Landis, District Judge, appears the following entry to-wit:

753.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

Consolidated Causes.

This day come the defendants in the above entitled causes and make their motion to the Honorable Kenesaw M. Landis, Judge of said Court, who under the rule of said Court as to the division of the work of said Court heretofore made and entered herein, is the Judge to whom is now assigned the equity cases of said District Court for the Eastern Division, Northern District of Illinois, that he vacate and set aside the order heretofore made by him in each of said cases, calling to his assistance two other judges to hear the application for a preliminary injunction herein.

And said defendants assign as a ground for said motion that said application for a preliminary injunction is not upon the ground of the unconstitutionality of a State statute.

And the Court, due notice of said motion having been given to the plaintiffs in each of said causes, overruled said motion; to which ruling each of said defendants in each of said causes duly except.

Enter Jan. 6, 1917.

K. M. L.,
Judge U. S. District Court.

151 And on to-wit: the third day of February, 1917, there was filed in the clerk's office of said Court in said entitled cause a certain Transcript of Oral Opinions delivered by Three Judge Court on Preliminary Motions. Said Opinions are in words and figures following to-wit:

152 CHICAGO, ILL., January 6, 1917.—10.30 o'clock a. m.

Hearing met pursuant to adjournment.
Parties present as before.

Judge Evans: Is there any objection to an order of consolidation of all of these causes? Motions are made in one cause and objections are made in another cause, and we have heard them as though they were consolidated. If I hear no objection from either side I will direct that the actions be consolidated.

Mr. Norton: Would that involve, your Honor, a multiplication of records in the case of appeal?

Mr. Folk: No, it would decrease the records.

Mr. Norton: The reason I ask the question is that some counsel on the other side objected at the beginning to trying one case as typical, and if there is an involvement of the trial of all cases,

with records in all cases, I suppose the consolidation would obviate that.

Judge Evans: My associates suggested that it would be proper to enter an order, or have an understanding that one record on
153 one case will be sufficient, and that it will be understood that it will not be necessary to prepare a record in all of the cases to go up. I am not familiar with the practice in that respect.

The court wishes to apologize somewhat for the lengthy argument that we have been in part responsible for, by our many questions. It is a subject that we are not as well posted on as the attorneys, and we have to feel our way along; and somewhat in the same position as the attorneys, we are not at the present time in full accord on all matters and all motions before the court. I shall endeaver to express the opinion of the majority of the court, and wherein any one dissents or differs from me, that associate will express his own views.

We are all of the opinion that the application for a temporary injunction should be heard by three judges.

We are all of the opinion that the application set forth in the so-called cross bill to restrain the order of the Interstate Commerce Commission, upon which the bill is predicated, must be heard by three judges; and that a motion to strike out a portion of the cross bill as such, or an objection to this court's entertaining the cross bill for want of jurisdiction, comes within that provision that
154 requires three judges to pass upon it.

Upon the objections of the United States which are set forth in its special appearance, the majority of the court are of the opinion that the cross bill should be stricken out; that this court has no jurisdiction of the cross bill as such, and that the only court that can attack, modify, enforce or annul the order of the Interstate Commerce Commission in this particular instance, is the United States District Court for the Eastern District of Missouri.

Under the equity rules, where there are no longer demurrers, a motion to strike is in order, and if this court had no jurisdiction under the old rule a demurrer to the cross bill would lie, and under the new rule a motion to strike out, taking its place, must therefore be granted.

In support of the conclusion, I might say, that it has been reached not without some difficulty; while we think unquestionably the venue of any action to attack the Interstate Commerce Commission's ruling must be in the United States District Court of the district where the petitioner resides, our difficulty has been upon the contention of the defendants as to the general jurisdiction of a court that has once acquired jurisdiction of the subject matter, and which, under
155 the equity rules, should litigate all issues that arise out of the cause of action set forth in the original bill.

If it were not for the fact that I am convinced that the granting of this motion would not deny to the State Public Utilities Commission of Illinois the right to review the question which it seeks to review by this cross bill, I would not have reached the conclusion that I do reach, but I am of the opinion that the State Public Utilities Commission of Illinois may still apply to the Interstate Commerce

Commission to determine whether the rates filed are in compliance with the order, or it can apply to the United States District Court for the Eastern District of Missouri without first applying to the Interstate Commerce Commission to determine whether the order should remain in force as entered; and, when that action is pending in the Eastern District of Missouri, then the cause of action in this state could be stayed, or an application therefor could be made, and the Eastern District of Missouri would have ample jurisdiction to stay if necessary the action of the Interstate Commerce Commission, pending the hearing of the matter in that court.

156 We believe that the United States, as representative of the Interstate Commerce Commission, would be a necessary party under ordinary circumstances; and, if this Court could not proceed to trial without the presence of some necessary party, the Court would deny the jurisdiction of this Court entirely, and dismiss the bill. But, in the particular case, the United States cannot be made a party defendant in this court because Congress has given such jurisdiction to review the acts of the Interstate Commerce Commission as it saw fit. It had the right to deny to courts the power to review these rulings altogether. In other words, the United States could not be sued without the consent of Congress, and if it has the right to deny any litigant, if it has the power to deny to any litigant the right to sue the sovereign government, it surely has the right to impose such terms and conditions as Congress, in its wisdom, may prescribe.

Congress, in its wisdom, has prescribed that there is but one court that can entertain jurisdiction of a suit against the United States to review the action of the Interstate Commerce Commission, and in this particular case it is the Eastern District of Missouri. Therefore, we have a situation somewhat different from that suggested by

157 counsel for the defendants, where a necessary and indispensible party cannot be brought into the Court. It is a case where this Court has not jurisdiction of the subject matter by reason of the Act of Congress.

For these reasons the majority of the Court have concluded that the objection of the United States to the cross bill as such, of the defendants, should be sustained; and that the cross bill, as such, should be stricken out.

The Attorney General made a motion to dismiss the original bill for want of jurisdiction, and the basis of that motion is that the bill is an action to enforce an order of the Interstate Commerce Commission, and the only court that can entertain such an action is the Eastern District of Missouri.

The majority of this Court are of the opinion that this action is not an action to enforce an order of the Interstate Commerce Commission; and if I were to give my reasons or suggest the method of arriving at my conclusion, it would be this: the word "enforce" has been used by the various counsel who argued before us, with a different meaning. Unquestionably, in general language, you might call this bill an action to enforce an order of the Interstate Com-

158 merce Commission; but, the section which defined the venue of the court, defined the word "enforce" in a manner different

from that in which counsel used the word "enforce" when they spoke of this action as being an action to enforce an order of the Interstate Commerce Commission. In determining whether the motion of the Attorney General should be granted to dismiss the bill, it seemed to me that the word "enforce" should be given that definition which Congress meant to give it when it was defining the venue in which the action should be brought. And, when we look to that statute which defines the venue, it seems to me very clearly that this action to enforce the order would be some sort of an action such as criminal, or mandamus, or some action of a character of that nature.

Surely an action in the way of an injunction against District Attorneys is not, in the opinion of the majority of the Court, an action to enforce an order.

On the motion to strike out, certain portions will be granted, and some denied.

The first portion, being the first paragraph on page 6, starting: "And these defendants upon information," etc., and ending
159 with the words "For their own benefit," should not be stricken out. The motion therefore is denied.

Paragraph (*h*) and paragraph (*i*) of the answer should be stricken out and the motion therefore is granted.

Such portion of the paragraph (*j*) reading as follows: "And there was no substantial evidence before the said Commission to support a finding," is stricken out.

The last paragraph on page 7, and ending near the top of page 8, being set forth on pages 2 and 3 of the motion to strike out, is granted.

All other requests are denied.

Upon the application for a temporary injunction, without hearing the counsel, we wish to say that we have reached the conclusion that the application for a temporary injunction will be denied, but without prejudice to apply to this Court, if the final disposition of the case is not reached on or before January 15th. In other words, we do not think it is necessary for us to trouble you with furnishing proof and evidence as to this temporary injunction, when it can affect nobody until after January 15th; and in view of the action which this Court has taken upon the cross bill we anticipate that the final decree ought to be reached before January 15th, as the Court
160 is ready to proceed with the hearing upon the merits, and can proceed at once. The application is denied, therefore, without prejudice.

Judge Landis: It is never very important for a dissenter to express his opinion, where the opinions have no effect upon the order of the Court, excepting possibly in some instance to point out the true road conceived by the dissenter in the hope that at some time in the future the majority, that are in error, may get right.

The difference of opinion here is fundamental, and arises from the varying views of lawyers and judges as to the inherent nature of these plaintiffs' bill of complaint. The position of the plaintiff is that this is not a proceeding to enforce an order of the Interstate Com-

merce Commission. In that view a majority of this Court concurs; a minority does not concur.

The view of the minority is that the order of the Interstate Commerce Commission, regarded as a substantial thing designed to accomplish a substantial object, was to impose upon the passenger that rides in the railroad car the liability to pay 2.4 cents fare per mile; and that this proceeding by the plaintiff is to effect that object and enforce that liability upon the passenger.

161 As preliminary intermediate steps to the accomplishment of that object, railroad companies have to file schedules. That is an affirmative act. Agents have to sell tickets; that is an affirmative act. Public Utilities bodies of states must refrain from interfering and obstructing the discharge of the duty the order of the Commission requires the railroad company to perform. Prosecuting attorneys must refrain from instituting suits to hinder, embarrass, prevent or obstruct the railway companies from proceeding as required by law intermediate to the ultimate object.

So it is my opinion that the bill seeks the enforcement of the Interstate Commerce Commission's order against the passenger that rides on the railroad car. If I am right, this is a bill to enforce an order; and if it is a bill to enforce an order it must be brought in the Eastern District of Missouri.

Passing that element of this question with which I am dealing, the bill is filed; it seeks relief against the defendants. The defendants are served with the bill, and on examination they find that the bill seeks relief in respect of certain transactions that a third party, a stranger to the bill, had to do with. The defendants find that

162 the plaintiffs' relief is founded upon the conduct of a third party, a stranger to the bill, and the defendants concede that with that third party in the litigation the defendants would be entitled to have written into the decree of the Court, when the Court finally comes to dispose of the whole subject matter, which is always the duty of an Equity Court,—that the defendants may have written in there, relief against the absent third party, upon the conduct of which absent third party the plaintiffs' prayer for relief is solely and exclusively predicated, and without which conduct of the absent third party there would be no bill in any court. So the defendant brought a cross bill and it asks the court to write into the decree for the benefit of the defendant, relief in respect of the identical conduct of the absent third party upon which conduct the plaintiff seeks its relief; and, that cross bill is put before the Court and the suggestion is made that you must strike it out because if you do not strike it out there is a party whose presence is necessary that you cannot bring in, and therefore the whole proceeding fails.

My view is that does not go to the right of the cross bill to be heard; it goes to the right of the Court to deal with the sub-

163 ject matter at all. Just as if the absent United States had been made by the bill a part defendant, and the Attorney General of the United States had come in in response to the plaintiff's prayer for his presence, and raised the question that is raised here by the United States when brought in by the request of the cross

complainants. If that had happened, the Court being of the opinion that they cannot bring in the United States, the bill would have failed, assuming the United States to be a necessary party.

Therefore, it is my opinion, first, that the plaintiff's bill is a bill to enforce against the passenger the liability which the plaintiff says the Interstate Commerce Commission, by its order, has created against the passenger. Therefore, it is a bill to enforce that order, necessarily. Therefore it is a bill for the jurisdiction where the petitioner before the Interstate Commerce Commission has his residence.

A bill filed there gives the defendant the right to require the United States to come there; the chancellor presiding there can write a decree giving this complainant what it is entitled to, and giving these defendants what they are entitled to as against the
164 United States, which would necessarily have to respond to a summons in that jurisdiction.

These are my views, gentlemen. It is my habit to have a reason for what I do, sitting here. They have not uniformly been regarded in other quarters as good reasons, but they are always my reasons, and it is fair to the litigants that the judge give the litigant a statement of his reasons.

The prayer for the preliminary injunction has been denied. The cross-bill has been dismissed. We are unanimous on denying, as the presiding judge has said, we are unanimous on denying the application for a temporary injunction. Two of the Court struck out the cross-complainant; the third member of the Court is opposed to striking it out, believing that it should not be stricken out; that it is not to be stricken out because it suggests relief against somebody that you cannot bring in, and if that somebody cannot be brought in, and is a necessary party to the subject matter as to which the plaintiff seeks relief, the whole thing must fall under the general equity rule.

Judge Carpenter: I have nothing to say on the legal phases of this case. I wish to observe what you all understand, I am sure,
165 that this is the greatest lawsuit that has arisen in this country for a great many years. There is one paramount issue, an issue which has been impending for a long time. The part played by the railroads in this country has been so complex that the line which is to be drawn between interstate traffic and intrastate traffic is somewhat difficult to discover.

It is well understood that the action of Congress as to interstate traffic is paramount, the only controversy being generally, when does intrastate traffic interfere with or affect interstate operations. The railroads construe the order of the Interstate Commerce Commission in this instance to permit them to override all local state rates. The line of controversy is well known and clearly understood. It seems to me that so long as there is an appropriate forum where the question may be settled once and for all, resort should be had there immediately, and aid should be offered by every person or party affected for such a speedy settlement. The government, the state of Illinois, the Interstate Commerce Commission, and the railroads

should strip this proceeding of all technicalities and move earnestly and quickly in the interest of the public, to end the dispute. If action in Congress is necessary, application should there be
166 made.

Mr. Norton: I would like to ask the presiding judge, on account of the importance in the preparation that we may have to make in more detail, what was stricken out. I tried to follow it in this memorandum.

Judge Evans: I have it marked in this book, but I think the reporter could have it transcribed for you.

Mr. Norton: Well, if you haven't it——

Judge Evans: I might assert that the first paragraph was kept in.

Mr. Norton: The first paragraph in my motion?

Judge Evans: The first paragraph in your motion was kept in for the purpose suggested by Mr. Wilkerson, that if it be shown that the plaintiffs come into court without clean hands, they should be denied justice, and not as bearing on any other issue.

Mr. Norton: What did you do with paragraphs 4 and 5 in my motion?

Judge Evans: Paragraph 5 is denied. It is nothing but a conclusion and it has no special bearing, so we just denied it.

Four is out.

[Endorsed:] Filed Feb. 3, 1917. T. C. MacMillan, Clerk.

167 And on to-wit: the sixth day of January, 1917, being one of the days of the December 1916, Term of said Court, in the record of proceedings in said entitled cause, before the Hon. Evan A. Evans, Circuit Judge, Hon. Kenesaw M. Landis, and Hon. George A. Carpenter, District Judges, appears the following entry to-wit:

168 In the District Court of the United States, Northern District of Illinois, Eastern Division.

No. 752.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

SAME.

No. 754.

CHICAGO & ALTON RAILROAD COMPANY

vs.

SAME.

No. 755.

CHICAGO GREAT WESTERN RAILROAD COMPANY

vs.

SAME.

No. 756.

MICHIGAN CENTRAL RAILROAD COMPANY

vs.

SAME.

No. 757.

CHICAGO & ILLINOIS MIDLAND RAILWAY

vs.

SAME.

No. 758.

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY

vs.

SAME.

No. 759.

WM. J. JACKSON, Receiver Chicago & Eastern Illinois Railroad,

vs.

SAME.

No. 760.

JACOB M. DICKINSON, Receiver Chicago, Rock Island & Pacific Railway Company,

vs.

SAME.

No. 761.

WALTER L. ROSS, Receiver Toledo, St. Louis & Western Railroad Company,

VS.

SAME.

No. 762.

CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY

VS.

SAME.

169 No. 763.

LAKE ERIE & WESTERN RAILROAD COMPANY

VS.

SAME.

No. 764.

NEW YORK CENTRAL RAILROAD COMPANY

VS.

SAME.

No. 765.

BLUFORD WILSON and WM. COTTER, Receivers Chicago, Peoria & St. Louis Railroad Company,

VS.

SAME.

No. 766.

WABASH RAILWAY COMPANY

VS.

SAME.

No. 767.

MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE RAILWAY COMPANY

VS.

SAME.

No. 768.

B. F. BUSH, Receiver St. Louis, Iron Mountain & Southern Railway Company et al.,

vs.

SAME.

No. 769.

MINNEAPOLIS & ST. LOUIS RAILROAD COMPANY

vs.

SAME.

No. 770.

TOLEDO, PEORIA & WESTERN RAILWAY COMPANY

vs.

SAME.

No. 771.

CINCINNATI, INDIANAPOLIS & WESTERN RAILROAD COMPANY

vs.

SAME.

No. 772.

LOUISVILLE & NASHVILLE RAILROAD COMPANY

vs.

SAME.

No. 773.

MOBILE & OHIO RAILROAD COMPANY

vs.

SAME.

No. 774.

SOUTHERN RAILWAY COMPANY

vs.

SAME.

No. 775.

BALTIMORE & OHIO SOUTHWESTERN RAILROAD COMPANY

vs.

SAME.

No. 776.

VANDALIA RAILROAD COMPANY

vs.

SAME.

No. 777.

ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY

vs.

SAME.

170 No. 782.

ROCK ISLAND SOUTHERN RAILWAY COMPANY

vs.

SAME.

No. 786.

ILLINOIS SOUTHERN RAILWAY COMPANY

vs.

SAME.

These causes coming on to be heard at this term, were argued by counsel upon the following matters:

A. Upon the motion filed and made by the Atchison, Topeka & Santa Fe Railway Company in No. 777:

First. To strike out certain portions of the answer of the defendants represented by the attorney general of the State of Illinois; and

Second. To strike out the answer of the same defendants, both as an answer and as a counterclaim.

B. Upon the verbal motion made by plaintiffs in the other cases to strike out the same portions of said answer included in the first part of the motion of the Atchison, Topeka & Santa Fe Railway Company.

C. Upon the motion of the plaintiffs, other than the Atchison,

Topeka & Santa Fe Railway Company to dismiss the cross bill of the said defendants.

D. Upon the special appearance and answers of the United States of America praying for an order to dismiss the bills of complaint and the supplemental bills of the plaintiffs, and the answer and cross bill or counterclaim of the defendants represented by the attorney general of the State of Illinois upon the ground that the same are not laid in the proper venue.

E. Upon the plea and answer of the Interstate Commerce Commission to the answer in the nature of a cross bill, filed by the said State Public Utilities Commission of Illinois and others.

F. Upon the application of the plaintiffs for an interlocutory injunction as prayed in their bills of complaint and supplemental bills.

171 And thereupon, upon consideration of said matters the court was of the opinion that these cases should be consolidated as hereinafter provided, and it was ordered adjudged and decreed as follows:

1. That the above entitled causes be consolidated for the purpose of disposing of the matters heard and now before the court for disposition.

2. That the motions of the plaintiffs to strike out certain portions of the answer of the State Public Utilities Commission of Illinois and other defendants represented by the Attorney General of Illinois be granted only as to the portions of said answer hereinafter specified, to wit: The last paragraph on page seven, ending near the top of page eight of said answer, and reading as follows:

"These defendants say that the orders of September 6, 1916, and October 11, 1916, and the supplemental report and order of October 17, 1916, were made without previous notice to these defendants (interveners in that proceeding), and without any further hearing after the making of the original report and order of July 12, 1916; and these defendants are not advised whether said supplemental report and order made by the Interstate Commerce Commission on October 17, 1916, were made by said Commission on its own initiative or on an ex parte application by the complainant in that proceeding or by the defendant carriers; but these defendants say that the said order of October 17, 1916, is not based upon the original complaint, but goes beyond the matters therein complained of and the relief therein prayed, and that the Interstate Commerce Commission, after the entry of its order of July 12, 1916, was without jurisdiction or power in that proceeding to make a supplemental report and to enter a further order without notice to these defendants as interveners therein and without an opportunity to them to be heard, and by such report and order to extend and enlarge the relief afforded both beyond the scope of its original order and beyond the scope of the complaint upon which the proceeding was based. And these defendants deny that they are in any way bound by the

172 conclusions or directions contained in said supplemental report or order,"

is stricken out.

Paragraphs (*h*) and (*i*) on pages 13 and 14 of said answer, reading as follows:

"(*h*) There was no substantial evidence in the proceedings before the Interstate Commerce Commission to support its order of October 17, 1916, or to sustain its report or supplemental report or the findings upon which its said order is based.

"(*i*) There was no substantial evidence in said proceeding on which to base the conclusion that the present interstate passenger fares between St. Louis and Keokuk, on the one hand, and points in Illinois, on the other, are just and reasonable, in so far as they are not in excess of 2.4 cents per mile, plus a reasonable bridge toll for crossing the Mississippi River, nor for the finding that such fares are just and reasonable maximum fares, for the purpose of ending the supposed discrimination found in the original report of the Commission,"

are stricken out.

The words "and there was no substantial evidence before the said Commission to support a finding," and the words "evidence or," which occur in paragraph (*j*) on page 14 of said order, are stricken out, leaving said paragraph to read as follows:

"(*j*) The Interstate Commerce Commission has not found, that the maintenance in Illinois of fares upon a basis lower than the basis for contemporaneous fares between St. Louis and Illinois points has lessened or materially affected the volume of travel between St. Louis and Illinois points or worked any substantial injury to St. Louis or to the Business Men's League of St. Louis; nor was there any such finding with respect to Keokuk."

Paragraph (*m*) on page 15 of said answer reading as follows:

"(*m*) The evidence on behalf of the complainant itself showed that the commercial and business interests which it represented were opposed to any increase in the intrastate fares in Illinois; the
173 conclusion is inevitable that there was no unjust discrimination or undue prejudice or disadvantage to St. Louis, and the findings of the Interstate Commerce Commission are contrary to the evidence and its said order is arbitrary and unjust,"

is stricken out.

3. The motions to dismiss or strike out said answer, in so far as the same is in the nature of a cross bill or counterclaim, are disposed of by striking therefrom the following portion of the conclusion of said answer or cross bill, to wit:

"That this answer be taken as the cross bill or counterclaim of these defendants against the said plaintiff and the United States of America and the Interstate Commerce Commission, and that they be required, within the time fixed by law and the rules and practice of this court, to answer the same, but not under oath, answer under oath being waived.

The defendants further pray that the said order of the Interstate Commerce Commission entered on October 17, 1916 (except in so far as it vacates the previous order of July 12, 1916), be set aside and

annulled, and that, pending the final determination of this cause, the said orders be suspended; that upon the final hearing hereof, the parties hereto, other than these answering defendants, may be permanently enjoined and restrained from complying with, enforcing or attempting to enforce the provisions of said orders; and that these defendants may have such other and further relief in the premises as to the court shall seem meet."

4. The motions to strike out other specified portions of said answer, and the motions to strike out said answer as a whole, are denied.

5. The motion or request of the United States of America to dismiss the bills of complaint and supplemental bills for want of proper venue, is denied, and thereupon the United States elected to stand on its special appearance and to plead no further, but said bills and supplemental bills as to the United States of America and The Interstate Commerce Commission, are dismissed for want of jurisdiction.

6. The application of the plaintiffs for an interlocutory
174 injunction, as prayed in their bills of complaint and supplemental bills, is denied, without prejudice to the right of said plaintiffs to renew said application, if the final disposition of these cases is not reached on or before January 15, 1917.

Enter January 6, 1917.

EVAN A. EVANS,
Circuit Judge.
CARPENTER,
District Judge.

175 And on the same day to-wit: the sixth day of January, 1917, being one of the days of the December, 1916, Term of said Court, in the record of proceedings in the cause entitled Chicago and North Western Railway Company vs. State Public Utilities Commission of Illinois et al., appears before the Hon. Evan A. Evans, Circuit Judge, Hon. Kenesaw M. Landis, and Hon. George A. Carpenter, District Judges, the following entry to-wit:

801.

CHICAGO AND NORTH WESTERN RAILWAY COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

These causes coming on to be heard at this term, were argued by counsel upon the following matters:

A. Upon the motion filed and made by the Atchison, Topeka & Santa Fe Railway Company in No. 777:

First. To strike out certain portions of the answer of the defendants represented by the Attorney General of the State of Illinois, and

Second. To strike out the answer of the same defendants, both as an answer and as a counterclaim, which said answer, for the purpose

of this hearing, in so far as the same is pertinent, is deemed to have been filed in this cause.

B. Upon the verbal motion made by plaintiff in this case to strike out the same portions of said answer included in the first part of the motion of the Atchison, Topeka & Santa Fe Railway Company.

176 C. Upon the motion of the plaintiff to dismiss the cross-bill of the said defendants.

D. Upon the application of the plaintiff for an interlocutory injunction as prayed in its bill of complaint.

And thereupon it was ordered and adjudged and decreed as follows:

1. That the motions of the plaintiff to strike out certain portions of the answer of the State Public Utilities Commission of Illinois and other defendants represented by the Attorney General of Illinois be granted only as to the portions of said answer hereinafter specified, to-wit: The last paragraph on page seven, ending near the top of page eight of said answer, and reading as follows:

"These defendants say that the orders of September 6, 1916, and October 11, 1916, and the supplemental report and order of October 17, 1916, were made without previous notice to these defendants (interveners in that proceeding), and without any further hearing after the making of the original report and order of July 12, 1916; And these defendants are not advised whether said supplemental report and order made by the Interstate Commerce Commission on October 17, 1916, were made by said commission on its own initiative or on an ex parte application by the complainant in that proceeding or by the defendant carriers; but these defendants — that the said order of October 17, 1916, is not based upon the original com-

177 plaint, but goes beyond the matters therein complained of and the relief therein prayed, and that the Interstate Commerce Commission, after the entry of its order of July 12, 1916, was without jurisdiction or power in that proceeding to make a supplemental report and to enter a further order without notice to these defendants as interveners therein and without an opportunity to them to be heard, and by such report and order to extend and enlarge the relief afforded both beyond the scope of its original order and beyond the scope of the complaint upon which the proceeding was based. And these defendants deny that they are in any way bound by the conclusions or directions contained in said supplemental report or order." is stricken out.

Paragraphs (*h*) and (*i*) on pages 13 and 14 of said answer reading as follows:

"(*h*) There was no substantial evidence in the proceedings before the Interstate Commerce Commission to support its order of October 17, 1916, or to sustain its report or supplemental report or the findings upon which its said order is based.

"(*i*) There was no substantial evidence in said proceeding on which to base the conclusion that the present interstate passenger fares between St. Louis and Keokuk, on the one hand, and points in

Illinois, on the other, are just and reasonable, in so far as they are not in excess of 2.4 cents per mile, plus a reasonable bridge toll for crossing the Mississippi River, nor for the finding that such fares are just and reasonable maximum fares, for the purpose of ending the supposed discrimination found in the original report of the commission," are stricken out.

178 The words "and there was no substantial evidence before the said Commission to support a finding," and the words "evidence or," which occur in paragraph (*j*) on page 14, of said order, are stricken out, leaving said paragraph to read as follows:

"(*j*) The Interstate Commerce Commission has not found, that the maintenance in Illinois of fares upon a basis lower than the basis for contemporaneous fares between St. Louis and Illinois points has lessened or materially affected the volume of travel between St. Louis and Illinois points or worked any substantial injury to St. Louis or to the Business Men's League of St. Louis; nor was there any such finding with respect to Keokuk."

Paragraph (*m*) on page 15 of said answer reading as follows:

"(*m*) The evidence on behalf of the complainant itself showed that the commercial and business interests which it represented were opposed to any increase in the intrastate fares in Illinois; the conclusion is inevitable that there was no unjust discrimination or undue prejudice or disadvantage to St. Louis, and the findings of the Interstate Commerce Commission are contrary to the evidence and its said order is arbitrary and unjust." is stricken out.

2. The motions to dismiss or strike out said answer, in so far as the same is in the nature of a cross-bill or counterclaim, are disposed of by striking therefrom the following portion of the con-

179 clusion of said answer or cross-bill, to-wit:

"That this answer be taken as the cross bill or counterclaim of these defendants against the said plaintiff and the United States of America and the Interstate Commerce Commission, and that they be required, within the time fixed by law and the rules and practice of this court, to answer the same, but not under oath, answer under oath being waived.

"These defendants further pray that the said order of the Interstate Commerce Commission entered on October 17, 1916, (except in so far as it vacates the previous order of July 12, 1916) be set aside and annulled, and that pending the final determination of this cause, the said orders be suspended; that upon the final hearing hereof, the parties hereto, other than these answering defendants, may be permanently enjoined and restrained from complying with, enforcing or attempting to enforce the provisions of said orders; and that these defendants may have such other and further relief in the premises as to the court shall seem meet."

3. The motions to strike out other specified portions of said answer, and the motions to strike out said answer as a whole, are denied.

4. The application of the plaintiff for an interlocutory injunction as prayed in its bill of complaint, is denied, without prejudice to the

right of said plaintiff to renew said application, if the final disposition of these cases is not reached on or before January 15, 1917.

Jan. 6th.

EVAN A. EVANS,
Judge of Circuit Court of Appeals.
CARPENTER,
Dist. Judge.

180 And on to-wit: the eighth day of February, 1917, in the record of proceedings in said entitled cause appears nunc pro tunc as of January ninth, 1917, before the Hon. Kenesaw Landis, District Judge, the following entry, to wit:

753.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION et al.

Number 753, and Cases Numbers 752, 754-777, 782, 786, 801.

Consolidated Causes.

It appearing to the Court that through inadventence the order of the court, made on January 9th, 1917, hereinafter set forth does not appear in the record of the proceedings in the above entitled causes for January 9th, 1917, by agreement of all the parties, It is Ordered that the record in each of said causes be, and the same is hereby amended so as to show the following order and proceedings on January 9th, 1917, viz.:

This cause coming on to be heard on the special appearance and motion of the Attorney General of Illinois, to dismiss the case for want of jurisdiction for the reason stated in said special appearance and motion, the court overrules said motion and said defend-
181 ant duly excepts, and leave is thereby given to said defendants to file his answer without prejudice to said motion to dismiss.

And the record herein is hereby amended as above stated, and the clerk is hereby directed to enter the above Order nunc pro tunc as of January 9th, 1917.

Enter: K. M. LANDIS.

182 And on to-wit: the ninth day of January, 1917, there was filed in the Clerk's office of said Court, in said entitled cause a certain Appearance and Motion, made by Edward J. Brundage, Attorney General of the State of Illinois. Said Appearance and Motion, are in words and figures following to-wit:

183 *Special Appearance and Motion.*

In the District Court of the United States, Northern District of Illinois, Eastern Division.

No. 752.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

v.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY

v.

SAME.

No. 754.

CHICAGO & ALTON RAILROAD COMPANY

v.

SAME.

No. 755.

CHICAGO GREAT WESTERN RAILROAD COMPANY

v.

SAME.

No. 756.

MICHIGAN CENTRAL RAILROAD COMPANY

v.

SAME.

No. 757.

CHICAGO & ILLINOIS MIDLAND RAILWAY

v.

SAME.

184 No. 758.

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY

v.

SAME.

No. 759.

WM. J. JACKSON, Receiver Chicago & Eastern Illinois Railroad,

v.

SAME.

No. 760.

JACOB M. DICKINSON, Receiver Chicago, Rock Island & Pacific Railway Company,

v.

SAME.

No. 761.

WALTER L. ROSS, Receiver Toledo, St. Louis & Western Railroad Company,

v.

SAME.

No. 762.

CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY

v.

SAME.

No. 763.

LAKE ERIE & WESTERN RAILROAD COMPANY

v.

SAME.

No. 764.

NEW YORK CENTRAL RAILROAD COMPANY

v.

SAME.

185

No. 765.

BLUFORD WILSON and WM. COTTER, Receivers Chicago, Peoria & St. Louis Railroad Company,

v.

SAME.

No. 766.

WABASH RAILWAY COMPANY

v.

SAME.

No. 767.

MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE RAILWAY COMPANY

v.

SAME.

No. 768.

B. F. BUSH, Receiver St. Louis, Iron Mountain & Southern Railway Company et al.,

v.

SAME.

No. 769.

MINNEAPOLIS & ST. LOUIS RAILROAD COMPANY

v.

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No. 770.

TOLEDO, PEORIA & WESTERN RAILWAY COMPANY

v.

SAME.

No. 771.

CINCINNATI, INDIANAPOLIS & WESTERN RAILROAD COMPANY

v.

SAME.

186 No. 772.

LOUISVILLE & NASHVILLE RAILROAD COMPANY

v.

SAME.

No. 773.

MOBILE & OHIO RAILROAD COMPANY

v.

SAME.

No. 774.

SOUTHERN RAILWAY COMPANY

v.

SAME.

No. 775.

BALTIMORE & OHIO SOUTHWESTERN RAILWAY COMPANY

v.

SAME.

No. 776.

VANDALIA RAILROAD COMPANY

v.

SAME.

No. 777.

ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY

v.

SAME.

No. 782.

ROCK ISLAND SOUTHERN RAILWAY COMPANY

v.

SAME.

No. 786.

ILLINOIS SOUTHERN RAILWAY COMPANY

v.

SAME.

187 Consolidated Cases.

Special Appearance and Motion to Dismiss of Edward J. Brundage, Attorney General of the State of Illinois.

Now comes Edward J. Brundage, Attorney General of the State of Illinois, who is made party defendant by the second supplemental bill of complaint in each of the above entitled causes, and not entering his appearance herein, but appearing specially for the purpose of challenging and objecting to the jurisdiction and venue of this court, moves the court to dismiss the bill of complaint and the supplemental bills of complaint in each of the above entitled causes on the ground that the said Business Men's League of St. Louis mentioned in each of the original bills of complaint in the above entitled causes, is a corporation duly organized and existing under the laws of the State of Missouri; that there was no petitioner in the proceedings before the Interstate Commerce Commission described in each of said bills of complaint, who resided in, or who now resides within the Judicial District for the Northern District of Illinois; and that by the provisions of the Act of October 22, 1913 (38 Stat.
188 219) it is provided:

"That the venue of any suit hereafter brought to enforce, suspend, or set aside, in whole or in part, any order of the Interstate Commerce Commission, shall be in the judicial District wherein is the residence of the party or any of the parties upon whose petition the order was made."

Wherefore, said Edward J. Brundage, Attorney General of the State of Illinois, prays that an order may be entered dismissing each of said bills of complaint, and each of said supplemental bills of complaint for want of proper venue in which to maintain the same, and for want of jurisdiction in said District Court for the Northern District of Illinois to hear the same.

EDWARD J. BRUNDAGE,
Attorney General of the State of Illinois.

JAMES H. WILKERSON,
TIMOTHY J. MULLEN,
Assistant Attorney Generals, of Counsel.

189 NORTHERN DISTRICT OF ILLINOIS,
State of Illinois, County of Cook, ss:

James H. Wilkerson, being first duly sworn, deposes and says that he is an Assistant Attorney General of the State of Illinois; that

he has read the foregoing motion and knows the contents thereof and that he verily believes the facts therein stated are true.

JAMES H. WILKERSON.

Subscribed and sworn to before me this 9th day of January, 1917.

BLANCHE A. O'CONNOR,
Notary Public, Cook County, Ill.

[SEAL.]

[Endorsed:] Filed Jan. 9, 1917. T. C. MacMillan, Clerk.

190 And on, to-wit, the ninth day of January, 1917, in the record of proceedings thereof, in said entitled cause, before the Hon. Kenesaw M. Landis, District Judge, appears the following entry, to-wit:

In Equity. No. 753 and Consolidated Cases.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff,

v.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Defendants.

Upon motion of plaintiff, leave is hereby given to file Second Supplemental Bill.

191 And on, to-wit, the tenth day of January, 1907, came the plaintiff in said entitled cause, by its solicitors, and by leave of Court first had and obtained, filed in the clerk's office of said Court its certain Second Supplemental Bill of Complaint in words and figures following, to-wit:

192 In the District Court of the United States, for the Northern District of Illinois, Eastern Division.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, AND WILLIAM L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw and Frank H. Funk, as members of and constituting the State Public Utilities Commission of Illinois; Edward J. Brundage, Attorney General of Illinois, Maclay Hoyne, State's Attorney of Cook County, Illinois, and Charles W. Hadley, State's Attorney of Du Page County, Illinois, and Charles L. Abbott, State's Attorney of Kane County, Illinois, and George S. Wiley, State's Attorney of La Salle County, Illinois, and Lowell B. Smith, State's Attorney of De Kalb County, Illinois, and Robert W. Martin, State's Attorney of Will County, Illinois, and Harry Edwards, State's Attor-

ney of Lee County, Illinois, and William J. Emerson, State's Attorney of Ogle County, Illinois, and Patrick H. O'Donnell, State's Attorney of Boone County, Illinois, and William Johnson, State's Attorney of Winnebago County, Illinois, and Harry C. Tear, State's Attorney of Jo Daviess County, Illinois, Charles H. Green, State's Attorney of Stephenson County, Illinois, and C. E. McNemar, State's Attorney of Peoria County, Illinois, and John H. McFadden, State's Attorney of Livingston County, Illinois, and Henry E. Jacobs, State's Attorney of Marshall County, Illinois, and E. E. Black, State's Attorney of Tazewell County, Illinois, and Ernst J. Henderson, State's Attorney of Woodford County, Illinois, and Miles K. Young, State's Attorney of McLean County, Illinois, and James M. Bandy, State's Attorney of Madison County, Illinois, and J. Earl Major, State's Attorney of Montgomery County, Illinois, and Edmund P. Nischwitz, State's Attorney of Mason County, Illinois, and Harry B. Hershey, State's Attorney of Christian County, Illinois, and Grover Cleveland Hoff, State's Attorney of De Witt County, Illinois, and C. E. Smith, State's Attorney of Logan County, Illinois, and Jesse L. Deck, State's Attorney of Macon County, Illinois, and C. F. Mortimer, State's Attorney of Sangamon County, Illinois, and Victor H. Hamphill, State's Attorney of Macoupin County, Illinois, and H. W. Shriner, State's Attorney of Clay County, Illinois, and Leslie L. Wilbourne, State's Attorney of Alexander County, Illinois, and S. N. Finn, State's Attorney of Marion County, Illinois, and Louis A. Busch, State's Attorney of Champaign County, Illinois, and Roy C. Martin, State's Attorney of Franklin County, Illinois, and R. R. Fowler, State's Attorney of Williamson County, Illinois, and O. R. Morgan, State's Attorney of Johnson County, Illinois, and Walter Roberts, State's Attorney of Massac County, Illinois, and Hubert E. Schaumleffel, State's Attorney of St. Clair County, Illinois, and Robert Hammond, State's Attorney of Coles County, Illinois, and Joseph B. Crowley, State's Attorney of Crawford County, Illinois, and Glenn Ratcliff, State's Attorney of Cumberland County, Illinois, and S. S. Duhamel, State's Attorney of Douglas County, Illinois, and Allen E. Walker, State's Attorney of Edwards County, Illinois, and Byron Piper, State's Attorney of Effingham County, Illinois, and W. P. Welker, State's Attorney of Fayette County, Illinois, and F. M. Thompson, State's Attorney of Ford County, Illinois, and James W. Kern, State's Attorney of Iroquois County, Illinois, and Otis F. Glenn, State's Attorney of Jackson County, Illinois, and W. E. Isley, State's Attorney of Jasper County, Illinois, and Wayne H. Dyer, State's Attorney of Kankakee
193 County, Illinois, and C. R. Patterson, State's Attorney of Moultrie County, Illinois, and S. A. Warden, State's Attorney of Perry County, Illinois, and Charles W. Firke, State's Attorney of Piatt County, Illinois, and John W. Browning, State's Attorney of Pope County, Illinois, and C. S. Miller, State's Attorney of Pulaski County, Illinois, and Alfred D. Reiss, State's Attorney of Randolph County, Illinois, and S. C. Lewis, State's Attorney of Richland County, Illinois, and James B. Lewis, State's Attorney

of Saline County, Illinois, and A. L. Yantis, State's Attorney of Shelby County, Illinois, *Illinois*, and James Lingle, State's Attorney of Union County, Illinois, and John H. Lewman, State's Attorney of Vermillion County, Illinois, and H. H. House, State's Attorney of Washington County, Illinois, and Joe A. Pearce, State's Attorney of White County, Illinois, and United States of America, and Interstate Commerce Commission, Defendants.

Second Supplemental Bill of Complaint.

To the Judges of the District Court of the United States, in and for the Northern District of Illinois, Eastern Division:

Now comes the above named plaintiff and by leave of court had files, this, its second supplemental bill of complaint, and says:

First. That on, to-wit, the 20th day of November, 1916, it duly filed its original bill of complaint in this Honorable Court against the State Public Utilities Commission of Illinois, William L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw, and Frank H. Funk, as members of and constituting the State Public Utilities Commission of Illinois; Patrick J. Lucey, Attorney General of Illinois; Maclay Hoyne, State's Attorney of Cook County, Illinois, and Charles W. Hadley, State's Attorney of Du Page County, Illinois, and Charles L. Abbott, State's Attorney of Kane County, Illinois, and George S. Wiley, State's Attorney of La Salle County, Illinois, and Lowell B. Smith, State's Attorney of De Kalb County, Illinois, and Robert W. Martin, State's Attorney of Will County, Illinois, and Harry Edwards, State's Attorney of Lee County, Illinois, and William L. Emerson, State's Attorney of Ogle County,
194 Illinois, and Patrick H. O'Donnell, State's Attorney of Boone County, Illinois, and William Johnson, State's Attorney of Winnebago County, Illinois, and Harry C. Tear, State's Attorney of Jo Daviess County, Illinois, Charles H. Green, State's Attorney of Stephenson County, Illinois, and C. E. McNemar, State's Attorney of Peoria County, Illinois, and John H. McFadden, State's Attorney of Livingston County, Illinois, and Henry E. Jacobs, State's Attorney of Marshall County, Illinois, and E. E. Black, State's Attorney of Tazewell County, Illinois, and Ernst J. Henderson, State's Attorney of Woodford County, Illinois, and Miles K. Young, State's Attorney of McLean County, Illinois, and James M. Bandy, State's Attorney of Madison County, Illinois, and J. Earl Major, State's Attorney of Montgomery County, Illinois, and Edmund P. Nischwitz, State's Attorney of Mason County, Illinois, and Harry B. Hershey, State's Attorney of Christian County, Illinois, and Grover Cleveland Hoff, State's Attorney of DeWitt County, Illinois, and C. E. Smith, State's Attorney of Logan County, Illinois, and Jesse L. Deck, State's Attorney of Macon County, Illinois, and C. F. Mortimer, State's Attorney of Sangamon County, Illinois, and Victor H. Hemphill, State's Attorney of Macoupin County, Illinois, and H. W. Shriner, State's Attorney of Clay County, Illinois, and Leslie L. Wilbourne, State's Attorney of Alexander County, Illinois, and S. N. Finn, State's At-

torney of Marion County, Illinois, and Louis A. Busch, State's Attorney of Champaign County, Illinois, and Roy C. Martin, State's Attorney of Franklin County, Illinois, and R. R. Fowler, State's Attorney of Williamson County, Illinois, and O. R. Morgan, State's Attorney of Johnson County, Illinois, and Walter Roberts, State's Attorney of Massac County, Illinois, and Hubert E. Schaumlefeel, State's Attorney of St. Clair County, Illinois, and Robert Hammond, State's Attorney of Coles County, Illinois, and Joseph B. Crowley, State's Attorney of Crawford County, Illinois, and Glenn Ratcliff, State's Attorney of Cumberland County, Illinois, and S. S. Duhamel, State's Attorney of Douglas County, Illinois, and Allen E. Walker, State's Attorney of Edwards County, Illinois, and Byron Piper, State's Attorney of Effingham County, Illinois, and W. F.
v95 Walker, State's Attorney of Fayette County, Illinois, and F. M. Thompson, State's Attorney of Ford County, Illinois, and James W. Kern, State's Attorney of Iroquois County, Illinois, and Otis F. Glenn, State's Attorney of Jackson County, Illinois, and W. E. Isley, State's Attorney of Jasper County, Illinois, and Wayne H. Dyer, State's Attorney of Kankakee County, Illinois, and C. R. Patterson, State's Attorney of Moultrie County, Illinois, and S. A. Warden, State's Attorney of Perry County, Illinois, and Charles W. Firke, State's Attorney of Piatt County, Illinois, and John W. Browning, State's Attorney of Pope County, Illinois, and C. S. Miller, State's Attorney of Pulaski County, Illinois, and Alfred D. Reiss, State's Attorney of Randolph County, Illinois, and S. C. Lewis, State's Attorney of Richland County, Illinois, and James B. Lewis, State's Attorney of Saline County, Illinois, and A. K. Yantis, State's Attorney of Shelby County, Illinois, and James Lingle, State's Attorney of Union County, Illinois, and John H. Lewman, State's Attorney of Vermillion County, Illinois, and James Lingle, State's Attorney of Washington County, Illinois, and Joe A. Pearce, State's Attorney of White County, Illinois, in which the plaintiff prayed for certain relief, the particulars of which are set forth in full in the said original bill filed in the office of the Clerk of this court on the said 20th day of November, 1916, reference to which is hereby made as though the same were set forth herein in full.

Second: The plaintiff further avers that on the 15th day of December, 1916, it filed herein its supplemental bill of complaint, making Charles L. Abbott, successor to William J. Tyers, as State's Attorney of Kane County, Illinois, Charles H. Green, successor to Albert H. Manus, as State's Attorney of Stephenson County, Illinois, Harry C. Tear, successor to Frank T. Sheean, as State's Attorney of Jo Daviess County, Illinois, John H. McFadden, successor to F. A. Ortman, as State's Attorney of Livingston County, Illinois, Grover Cleveland Hoff, successor to Louis O. Williams, as State's Attorney of DeWitt County, Illinois, C. F. Mortimer, successor to Edmund Burke, as State's Attorney of Sangamon County, Illinois, Victor H. Hemphill, successor to James Murphy, as State's Attorney of Macoupin County, Illinois, H. W. Shriner, successor to Thomas S.
196 Williams, as State's Attorney of Clay County, Illinois, Leslie L. Wilbourn, successor to Alexander Wilson, as State's Attor-

ney of Alexander County, Illinois, Roy C. Martin, successor to W. F. Spiller, as State's Attorney of Franklin County, Illinois, R. R. Fowler, successor to D. T. Hartwell, as State's Attorney of Williamson County, Illinois, O. R. Morgan, successor to H. A. Spann, as State's Attorney of Johnson County, Illinois, Walter Roberts, successor to Fred R. Young, as State's Attorney of Massac County, Illinois, Hubert E. Schaumleffel, successor to Charles Webb, as State's Attorney of St. Clair County, Illinois, Glenn Ratcliff, successor to Walter Brewer, as State's Attorney of Cumberland County, Illinois, S. S. Duhámel, successor to W. Thomas Coleman, as State's Attorney of Douglas County, Illinois, Allen E. Walker, successor to Edward A. Schroeder, as State's Attorney of Edwards County, Illinois, W. F. Welker, successor to J. G. Burnside, as State's Attorney of Fayette County, Illinois, F. M. Thompson, successor to Oscar H. Wylie, as State's Attorney of Ford County, Illinois, Otis F. Glenn, successor to W. A. Swartz, as State's Attorney of Jackson County, Illinois, W. E. Isley, successor to Charles D. Fithian, as State's Attorney of Jasper County, Illinois, O. R. Patterson, successor to J. K. Martin, as State's Attorney of Moultrie County, Illinois, Charles W. Firke, successor to Thomas J. Kastel, as State's Attorney of Piatt County, Illinois, S. G. Lewis, successor to H. G. Morris, as State's Attorney of Richland County, Illinois, James B. Lewis, successor to Sam Thompson, as State's Attorney of Saline County, Illinois, A. L. Yantis, successor to W. E. Lowe, as State's Attorney of Shelby County, Illinois, James Lingle, successor to William D. Lyerle, as State's Attorney of Union County, Illinois, and H. H. House, successor to J. Paul Garter, as State's Attorney of Washington County, Illinois, parties defendant to this suit.

And the plaintiff further shows to your honors that the above named defendants were duly served with process of subpœna in said suit and that the defendants, State Public Utilities Commission of Illinois and William L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw and Frank H. Funk, as members of and constituting the State Public Utilities Commission of Illinois;

197 Patrick J. Lucey, Attorney General of Illinois; Maclay Hoyne, State's Attorney of Cook County, Illinois; Charles W. Hadley, State's Attorney of Du Page County, Illinois; Charles L. Abbott (successor to William J. Tyers) State's Attorney of La Salle County, Illinois; Lowell B. Smith, State's Attorney of DeKalb County, Illinois; Robert W. Martin, State's Attorney of Will County, Illinois; Harry Edwards, State's Attorney of Lee County, Illinois; William J. Emerson, State's Attorney of Ogle County, Illinois; Patrick H. O'Donnell, State's Attorney of Boone County, Illinois; William Johnson, State's Attorney of Winnebago County, Illinois; Harry C. Tear (successor to Frank T. Sheean) State's Attorney of Joe Daviess County, Illinois; Charles H. Green (successor to Alber H. Manus) State's Attorney of Stepsenson County, Illinois; C. E. McNemar, State's Attorney of Peoria County, Illinois; John H. McFadden (successor to F. A. Ortman) State's Attorney of Livingston County, Illinois; Henry E. Jacobs, State's Attorney of Marshall County, Illinois; E. E. Black, State's Attorney of Tazewell County, Illinois; Ernest J.

Henderson, State's Attorney of Woodford County, Illinois; Miles K. Young, State's Attorney of McLean County, Illinois; James M. Bandy, State's Attorney of Madison County, Illinois; J. Earl Major, State's Attorney of Montgomery County, Illinois; Edmund P. Nischwitz, State's Attorney of Mason County, Illinois; Harry B. Hershey, State's Attorney of Christian County, Illinois; Grover Cleveland Hoff (successor to Louis O. Williams) State's Attorney of De Witt County, Illinois; C. E. Smith, State's Attorney of Logan County, Illinois; Jesse L. Deck, State's Attorney of Macon County, Illinois; C. F. Mortimer (successor to Edmund Burke) State's Attorney of Sangamon County, Illinois; Victor H. Hemphill (successor to James Murphy) State's Attorney of Macoupin County Illinois; H. W. Shriner (successor to Thomas S. Williams) State's Attorney of Clay County, Illinois; Leslie L. Wilbourne (successor to Alexander Wilson) State's Attorney of Alexander County, Illinois; S. N. Finn, State's Attorney of Marion County, Illinois; Louis A. Bush, State's Attorney of Champaign County, Illinois; Roy C. Martin (successor to W. F. Spiller) State's Attorney of Franklin County, Illinois; R. R. Fowler (successor to D. T. Hartwell) State's Attorney of Williamson County, Illinois; O. R. Morgan (successor to H. A. Spann) State's Attorney of Johnson County, Illinois; Walter Roberts (successor to Fred R. Young) State's Attorney of Massac County, Illinois; Hubert E. Schaumleffel (successor to Charles Webb) State's Attorney of St. Clair County, Illinois; Robert Hammond, State's Attorney of Coles County, Illinois; Joseph B. Crowley, State's Attorney of Crawford County, Illinois; Glen Ratcliff (successor to Walter Brewer) State's Attorney of Cumberland County, Illinois; S. S. Duhamel (successor to W. Thomas Coleman) State's Attorney of Douglas County, Illinois; Allen E. Walker (successor to Edward A. Schroeder) State's Attorney of Edwards County, Illinois; Byron Piper, State's Attorney of Effingham County, Illinois; W. P. Welker (successor to J. G. Burnside) State's Attorney of Fayette County, Illinois; F. M. Thompson (successor to Oscar H. Wylie) State's Attorney of Ford County, Illinois; James W. Kern, State's Attorney of Iroquois County, Illinois; Otis F. Glenn (successor to W. A. Swartz) State's Attorney of Jackson County, Illinois; W. E. Isley (successor to Charles D. Fithian) State's Attorney of Jasper County, Illinois; Wayne H. Dyer, State's Attorney of Kankakee County, Illinois; O. R. Patterson (successor to J. K. Martin) State's Attorney of Moultrie County, Illinois; S. A. Warden, State's Attorney of Perry County, Illinois; Charles W. Firke (successor to Thomas J. Kastel) State's Attorney of Piatt County, Illinois; John W. Browning, State's Attorney of Pope County, Illinois; C. S. Miller, State's Attorney of Pulaski County, Illinois; Alfred D. Reiss, State's Attorney of Randolph County, Illinois; S. C. Lewis (successor to H. G. Morris) State's Attorney of Richland County, Illinois; James B. Lewis (successor to Sam Thompson) State's Attorney of Saline County, Illinois; A. L. Yantis (successor to W. E. Lowe) State's Attorney of Shelby County, Illinois; James Lingle (successor to William D. Lyerle) State's Attorney of Union County, Illinois; John H. Lewman, State's Attorney of Vermilion County, Illinois; H. H.

House (successor to J. Paul Carter) State's Attorney of Washington County, Illinois, and Joe A. Pearce, State's Attorney of White County, Illinois, have made answer to said bill.

199 Third. The plaintiff further avers that since the filing of the original and said supplemental bill of complaint herein, the defendant Patrick J. Lucey, Attorney General of Illinois, has been succeeded in office by Edward J. Brundage, who is a citizen of the State of Illinois and a resident of Chicago, in the Northern District of Illinois, Eastern Division, and who has been duly elected, qualified and is now acting as Attorney General of the State of Illinois.

Wherefore, as it is without adequate remedy at law for its protection in said matter, plaintiff prays:

1. That the said Edward J. Brundage, who is hereby made party defendant to this bill, may be required to make full and true answer to the same, and to the original and supplemental bills herein (but not under oath, answer under oath being hereby expressly waived), and that the plaintiff may have the full benefits of the said suit and proceedings therein against the said Edward J. Brundage, Attorney General of the State of Illinois, and may have the same relief against him as the plaintiff might or could have had against said Patrick J. Lucey, Attorney General of the State of Illinois, in case he had not been succeeded in office as aforesaid.

2. That the said State Public Utilities Commission of Illinois, William L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw, and Frank H. Funk, as members of and constituting the State Public Utilities Commission of Illinois; Maclay Hoyne, State's Attorney of Cook County, Illinois; Louis A. Busch, State's Attorney of Champaign County, Illinois; Harry E. Hershey, State's Attorney of Christian County, Illinois; Robert Hammond, State's Attorney of Cole County, Illinois; Patrick H. O'Donnell, State's Attorney of Boone County, Illinois; Joseph B. Crowley, State's Attorney of Crawford County, Illinois; Lowell B. Smith, State's Attorney of De Kalb County, Illinois; Charles W. Hadley, State's Attorney of Du Page County, Illinois; Byron Piper, State's Attorney of Effingham County, Illinois; James W. Kern, State's Attorney of Iroquois County, Illinois; Wayne H. Dyer, State's Attorney of Kankakee County, Illinois; George S. Wiley, State's Attorney of La Salle County, Illinois;

Harry Edwards, State's Attorney of Lee County, Illinois;

200 O. E. Smith, State's Attorney of Logan County, Illinois;

Miles K. Young, State's Attorney of McLean County, Illinois; Jesse L. Deck, State's Attorney of Macon County, Illinois; James M. Bandy, State's Attorney of Madison County, Illinois; Henry E. Jacobs, State's Attorney of Marshall County, Illinois; Edmund P. Nischwitz, State's Attorney of Mason County, Illinois; J. Earl Major, State's Attorney of Montgomery County, Illinois; W. J. Emerson, State's Attorney of Ogle County, Illinois; C. E. McNemar, State's Attorney of Peoria County, Illinois; E. E. Black, State's Attorney of Tazewell County, Illinois; John H. Lewman, State's Attorney of Vermilion County, Illinois; Joe A. Pearce, State's Attorney of White County, Illinois; Robert W. Martin, State's Attorney of Will County,

Illinois; William Johnson, State's Attorney of Winnebago County, Illinois; Ernest J. Henderson, State's Attorney of Woodford County, Illinois; S. N. Finn, State's Attorney of Marion County, Illinois; S. A. Warden, State's Attorney of Perry County, Illinois; John W. Browning, State's Attorney of Pope County, Illinois; C. S. Miller, State's Attorney of Pulaski County, Illinois; and Alfred D. Reiss, State's Attorney of Randoph County, Illinois, may be required to make full and true answer to this second supplemental bill (but not under oath, answer under oath being hereby expressly waived).

3. That the plaintiff may have the relief herein above prayed in the original bill of complaint filed herein on the 20th day of November, 1916, and in the supplemental bill of complaint filed herein on the 15th day of December, 1916, reference to both of which is hereby made, the same as though set forth herein in full, and the prayer for relief in which said original bill and said supplemental bill is hereby reiterated herein in full, and such other and further relief in the premises as to your Honors may seem meet.

The plaintiff prays not only a writ of injunction conformable to the prayer, but also that a subpœna of the United States of America issue out of and under the seal of this Honorable Court, directed to the defendant Edward J. Brundage, Attorney General of Illinois,
thereby commanding him on a day certain therein to be
201 named to be and appear before this Honorable Court then
and there to answer (but not under oath, answer under oath being hereby expressly waived) all and singular the premises, and to perform and abide by such order, direction and decree as may be made in the premises, and that on final hearing said order of injunction may be made perpetual, and for such other and further relief as to your Honors may seem meet.

ILLINOIS CENTRAL RAILROAD COMPANY,
By FRANK B. BOWES, *Vice-President.*
A. P. HUMBURG,
J. G. DRENNAN,
CALHOUN, LYFORD & SHEEAN,
V. W. FOSTER,
Solicitors,
135 *East 11th Place, Chicago, Illinois.*

BLEWETT LEE,
W. S. HORTON,
Of Counsel.

202 COUNTY OF COOK,
State of Illinois, ss:

Frank B. Bowes, being duly sworn, on oath says that he is Vice President of the plaintiff, Illinois Central Railroad Company, and as such is authorized to make this affidavit in its behalf; that he has read the above and foregoing second supplemental bill of complaint and is familiar with the facts therein stated, and that all of said facts

are true, except those therein stated to be on information and belief, and as to the facts so stated he believes them to be true.

FRANK B. BOWES.

Subscribed and sworn to before me this 10th day of January, 1917.

[SEAL.] ALBERT J. PETERSON,
Notary Public.

[Endorsed:] Filed Jan. 10, 1917. T. C. MacMillan, Clerk.

203 And on to-wit: the tenth day of January, 1917, came Edward J. Brundage, Attorney General of the State of Illinois, and filed in the clerk's office of said Court in said entitled causes, his certain Answer in words and figures following, to-wit:

204 *Answer of the Attorney General, E. J. Brundage.*

In the District Court of the United States, Northern District of Illinois, Eastern Division.

No. 752.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

v.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY

v.

SAME.

No. 754.

CHICAGO & ALTON RAILROAD COMPANY

v.

SAME.

No. 755.

CHICAGO GREAT WESTERN RAILROAD COMPANY

v.

SAME.

No. 756.

MICHIGAN CENTRAL RAILROAD COMPANY

v.

SAME.

No. 757.

CHICAGO & ILLINOIS MIDLAND RAILROAD COMPANY

v.

SAME.

No. 758.

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY

v.

SAME.

No. 759.

WM. J. JACKSON, Receiver Chicago & Eastern Illinois Railroad,

v.

SAME.

No. 760.

JACOB M. DICKINSON, Receiver Chicago, Rock Island & Pacific Railway Company,

v.

SAME.

No. 761.

WALTER L. ROSS, Receiver Toledo, St. Louis & Western Railroad Company,

v.

SAME.

205 No. 762.

CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY

v.

SAME.

No. 763.

LAKE ERIE & WESTERN RAILROAD COMPANY

v.

SAME.

No. 764.

NEW YORK CENTRAL RAILROAD COMPANY

v.

SAME.

No. 765.

BLUFORD WILSON and WM. COTTER, Receivers Chicago, Peoria & St. Louis Railroad Company,

v.

SAME.

No. 766.

WABASH RAILWAY COMPANY

v.

SAME.

No. 767.

MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE RAILWAY COMPANY

v.

SAME.

No. 768.

B. F. BUSH, Receiver St. Louis, Iron Mountain & Southern Railway Company, et al.,

v.

SAME.

No. 769.

MINNEAPOLIS & ST. LOUIS RAILWAY COMPANY

v.

SAME.

No. 770.

TOLEDO, PEORIA & WESTERN RAILWAY COMPANY

v.

SAME.

No. 771.

CINCINNATI, INDIANAPOLIS & WESTERN RAILROAD COMPANY

v.

SAME.

No. 772.

LOUISVILLE & NASHVILLE RAILROAD COMPANY

v.

SAME.

No. 773.

MOBILE & OHIO RAILROAD COMPANY

v.

SAME.

206 No. 774.

SOUTHERN RAILWAY COMPANY

v.

SAME.

No. 775.

BALTIMORE & OHIO SOUTHWESTERN RAILROAD COMPANY

v.

SAME.

No. 776.

VANDALIA RAILROAD COMPANY

v.

SAME.

No. 777.

ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY

v.

SAME.

No. 782.

ROCK ISLAND SOUTHERN RAILWAY COMPANY

v.

SAME.

No. 786.

ILLINOIS SOUTHERN RAILWAY COMPANY

v.

SAME.

Answer of the Defendant, Edward J. Brundage, Attorney General of the State of Illinois, to the Bills of Complaint and Supplemental Bills in Each of the Above Entitled Cases.

This defendant, without waiving his objection to the jurisdiction and venue of this court heretofore made, and reserving to himself the right to object upon the ground that this court is without power to hear and determine the above entitled causes, answers said bills of complaint and supplemental bills as follows:

This defendant adopts as part of his answer the answer to the bills of complaint and supplemental bills as filed by the defend-
207 ants in each of the above entitled causes on the 18th day of December, 1916, and makes the allegations of said answers a part of his answer with the same effect as if those allegations were herein set forth in full.

This defendant further answers:

1. Said plaintiff has an adequate remedy under the Interstate Commerce Act of the United States and the amendments thereto. The order of the Interstate Commerce Commission relied upon in the Bill of Complaint is void, because it is in excess of the powers of the Interstate Commerce Commission, under the constitution and laws of the United States, because the hearing granted by the Commission was inadequate and its action arbitrary, and because the finding of the Interstate Commerce Commission was against the indisputable character of the evidence. Said plaintiff is given the right by said Interstate Commerce Act as amended, to institute and maintain proceedings to annul and set aside said order and will not be permitted to resort to equity upon the pretense that the order is valid, when the order is in fact void, and plaintiff is afforded by statute adequate protection against it.

2. Said plaintiff has a further adequate remedy under the Interstate Commerce Act and its amendments, in that it has the right to apply to the Interstate Commerce Commission for a ruling as to the effect of its said schedules so far as they relate to interstate
208 commerce and to maintain a suit for the enforcement of said ruling.

3. Said plaintiff has failed to show any irreparable threatened loss or injury.

4. Said plaintiff has alleged as an essential part of its cause of action that the schedules which have been filed by it comply with the order of October 17, 1916, and has failed to set forth any ruling or finding of the Commission as to the compliance of said schedules with any order of the Commission made with reference to a matter affecting interstate commerce.

5. Said bill of complaint and supplemental bills of complaint are in other respects insufficient and should be dismissed, because they fail to state a case properly cognizable in a Court of Equity.

6. Said order of the Interstate Commerce Commission made on October 17, 1916, in so far as it may be held to authorize the said passenger tariffs subsequently filed by said plaintiff with the State Public Utilities Commission of Illinois, was wholly unsustained by proof before the Interstate Commerce Commission.

7. The findings, conclusions and order of the Interstate Commerce Commission are not applicable to the plaintiff and if applied to the plaintiff, are wholly unsustained by the proof in the said proceeding before the Interstate Commerce Commission.

209 8. Since the filing of the Bill of Complaint in this case, the term of office of the said Patrick J. Lucy, as Attorney General of the State of Illinois has expired and on the 8th day of January, 1917, he was succeeded by the undersigned, Edward J. Brundage, who is now the duly elected, qualified and acting Attorney General of the State of Illinois.

9. This defendant denies each and every allegation in said Bill of Complaint and supplemental bills of complaint not herein above expressly admitted or denied, and prays that said Bill of Complaint and supplemental bills may be dismissed for want of equity.

EDWARD J. BRUNDAGE,
Attorney General of the State of Illinois.

JAMES H. WILKERSON,
T. J. MULLEN,
Assistant Attorney General
of the State of Illinois,
Of Counsel.

[Endorsed:] Filed Jan. 10, 1917. T. C. MacMillan, Clerk.

210 And on, to-wit, the tenth day of January, 1917, came State Public Utilities Commission of Illinois et al. by their solicitors and filed in the clerk's office of said Court their certain Amendment to their Answer heretofore filed and Answer to the Second

Supplemental Bill, said Amendment and Answer are in words and figures following, to-wit:

211 In the District Court of the United States, Northern District of Illinois, Eastern Division.

No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

Amendment to the Answer of the State Public Utilities Commission of Illinois et al. and Answer to the Second Supplemental Bill.

Now comes the defendants, who, appearing by the Attorney General of the State of Illinois, have heretofore filed their answers to the Bill of Complaint and First Supplemental Bill in the above-entitled causes, and without withdrawing or waiving any part of the said answers, the said defendants, other than the Attorney General of the State of Illinois, by leave of court granted, amend their said answer by inserting therein, after paragraph (*p*) reading:

"(*p*) The basis upon which the conclusions and findings of the Interstate Commerce Commission were reached are fundamentally wrong and contrary to law."

the following additional paragraphs, to-wit:

212 (*q*) The said order of the Interstate Commerce Commission made on October 17th, 1916, in so far as it may be held to authorize the said passenger tariffs subsequently filed by said plaintiff with the State Public Utilities Commission of Illinois was wholly unsustained by proof before the Interstate Commerce Commission.

(*r*) The finding and conclusions and order of the Interstate Commerce Commission are not applicable to the plaintiff and if applied to the said plaintiff, are wholly unsustained by the proof in said proceedings before the Interstate Commerce Commission.

(*s*) There was no substantial evidence in the proceedings before the Interstate Commerce Commission to support its order of October 17, 1916, or to sustain its report or supplemental report or the findings upon which its said order is based.

(*t*) There was no substantial evidence in said proceeding on which to base the conclusion that the present interstate passenger fares between St. Louis and Keokuk, on the one hand, and points in Illinois, on the other, are just and reasonable, in so far as they are not in excess of 2.4 cents per mile, plus a reasonable bridge toll for crossing the Mississippi River, nor for the finding that such fares are just and reasonable maximum fares, for the purpose of ending

the supposed discrimination found in the original report of the Commission.

(*u*) There was no substantial evidence before the said Commission to support a finding, that the maintenance in Illinois of fares upon a basis lower than the basis for contemporaneous fares between St. Louis and Illinois points has lessened or materially affected the volume of travel between St. Louis and Illinois points or worked any substantial injury to St. Louis or to the Business Men's League of St. Louis; nor was there any such evidence with respect to Keokuk.

213 (*v*) The evidence on behalf of the complainant itself showed that the commercial and business interests which it represented were opposed to any increase in the intrastate fares in Illinois; the conclusion is inevitable that there was no unjust discrimination or undue prejudice or disadvantage to St. Louis, and the findings of the Interstate Commerce Commission are contrary to the evidence and its said order is arbitrary and unjust.

The defendants aforesaid, other than the Attorney General of the State of Illinois, further amend and supplement their said answer in each of the above-entitled causes, by adding thereto the following paragraphs:

The order of the Interstate Commerce Commission relied upon in the bill of Complaint is void, because it is in excess of the powers of the Interstate Commerce Commission, under the Constitution and Laws of the United States, because the hearing granted by the Commission was inadequate and its action arbitrary, and because the finding of the Interstate Commerce Commission was against the indisputable character of the evidence. Said plaintiff is given the right by said Interstate Commerce Act, as amended, to institute and maintain proceedings to annul and set aside said order and will not be permitted to resort to equity upon the pretense that the order is valid when the order is in fact void, and plaintiff is afforded by statute adequate protection against it.

Said plaintiff has failed to show any irreparable threatened loss or injury.

These defendants say that the orders of September 6, 1916, and October 11, 1916, and the supplemental report and order of October 17, 1916, were made without previous notice to these defendants (interveners in that proceeding), and without any further hearing after the making of the original report and order of July 12, 1916, and these defendants are not advised whether said supplemental

214 report and order made by the Interstate Commerce Commission on October 17, 1916, were made by said Commission on its own initiative or on an ex parte application by the complainant in that proceedings or by the defendant carriers; but these defendants say that the said order of October 17, 1916, is not based upon the original complaint, but goes beyond the matters therein complained of and the relief therein prayed, and that the Interstate Commerce Commission, after the entry of its order of July 12, 1916, was without jurisdiction or power in that proceeding to make a supplemental

report and to enter a further order without notice to these defendants as interveners therein and without an opportunity to them to be heard, and by such report and order to extend and enlarge the relief afforded both beyond the scope of its original order and beyond the scope of the complaint upon which the proceeding was based. And these defendants deny that they are in any way bound by the conclusions or directions contained in said supplemental report or order.

And for answer to the second supplemental bill herein these defendants say that since the filing of the original answer of these defendants to the bill of complaint and first supplemental bill in this case, the term of office of Patrick J. Lucey as Attorney General of the State of Illinois has expired, and on the 8th day of January, 1917, he was succeeded by Edward J. Brundage, who is now the duly elected, qualified and acting Attorney General of the State of Illinois.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS;
WILLIAM L. O'CONNELL,
OWEN P. THOMPSON,
RICHARD YATES,
WALTER A. SHAW, AND
FRANK H. FUNK,
As Members of and Constituting the State Public Utilities Commission of Illinois,
LESLIE L. WILBOURN,
(Successor to Alexander Wilson),
State's Attorney of Alexander County, Illinois,
215 FRANK A. OAKLEY,
(Successor to P. H. O'Donnell),
State's Attorney of Boone County, Illinois,
LOUIS A. BUSCH,
State's Attorney of Champaign County, Illinois.
HARRY B. HERSHEY,
State's Attorney of Christian County, Illinois.
H. W. SHRINER,
(Successor to Thomas S. Williams),
State's Attorney of Clay County, Illinois.
EMERY ANDREWS,
(Successor to Robert G. Hammond),
State's Attorney of Coles County, Illinois,
MACLAY HOYNE,
State's Attorney of Cook County, Illinois.
CHARLES E. JONES,
(Successor to Joseph B. Crowley),
State's Attorney of Crawford County, Illinois,
GLENN RATCLIFF,
(Successor to Walter Brewer),
State's Attorney of Cumberland County, Illinois.
LOWELL B. SMITH,
State's Attorney of DeKalb County, Illinois.

GROVER C. HOFF,
(*Successor to L. O. Williams*),
State's Attorney of DeWitt County, Illinois.
S. S. DUTTAMEL,
(*Successor to W. Thos. Coleman*),
State's Attorney of Douglas County, Illinois,
CHARLES W. HADLEY,
State's Attorney of DuPage County, Illinois.
216 ALLEN E. WALKER,
(*Successor to E. A. Schroeder*),
State's Attorney of Edwards County, Illinois.
BYRON PIPER,
State's Attorney of Effingham County, Illinois.
W. P. WELKER,
(*Successor to J. G. Burnside*),
State's Attorney of Fayette County, Illinois.
F. M. THOMPSON,
(*Successor to Oscar H. Wylie*),
State's Attorney of Ford County, Illinois,
ROY C. MARTIN,
(*Successor to W. F. Spiller*),
State's Attorney of Franklin County, Illinois,
JAMES W. KERN,
State's Attorney of Iroquois County, Illinois,
OTIS F. GLENN,
(*Successor to W. A. Schwartz*),
State's Attorney of Jackson County, Illinois,
WILLIAM E. ISLEY,
(*Successor to Charles D. Fithian*),
State's Attorney of Jasper County, Illinois,
217 HARRY C. TEAR,
(*Successor to Frank T. Sheean*),
State's Attorney of Jo Daviess County, Illinois,
C. R. MORGAN,
(*Successor to H. A. Spann*),
State's Attorney of Johnson County, Illinois,
CHARLES L. ABBOTT,
(*Successor to William J. Tyers*),
State's Attorney of Kane County, Illinois.
WAYNE H. DYER,
State's Attorney of Kankakee County, Illinois,
GEORGE S. WILEY,
State's Attorney of La Salle County, Illinois,
HARRY EDWARDS,
State's Attorney of Lee County, Illinois,
JOHN H. McFADDEN,
(*Successor to F. A. Ortman*),
State's Attorney of Livingston County, Illinois,
C. EVERETT SMITH,
State's Attorney of Logan County, Illinois,

JESSE L. DECK,
State's Attorney of Macon County, Illinois.
VICTOR HEMPHILL,
(*Successor to James H. Murphy*),
State's Attorney of Macoupin County, Illinois,
JOSEPH P. STREUBER,
(*Successor to J. M. Bandy*),
State's Attorney of Madison County, Illinois,
S. N. FINN,
State's Attorney of Marion County, Illinois,
WALLACE J. BLACK,
(*Successor to Henry E. Jacobs*),
State's Attorney of Marshall County, Illinois,
EDMUND P. NISCHWITZ,
State's Attorney of Mason County, Illinois,
WALTER ROBERTS,
(*Successor to Fred R. Young*),
State's Attorney of Massac County, Illinois,
218 MILES K. YOUNG,
State's Attorney of McLean County, Illinois,
J. EARL MAJOR,
State's Attorney of Montgomery County, Illinois,
C. R. PATTERSON,
(*Successor to J. K. Martin*),
State's Attorney of Moultrie County, Illinois.
WILLIAM J. EMERSON,
State's Attorney of Ogle County, Illinois,
C. E. McNEMAR,
State's Attorney of Peoria County, Illinois,
NELSON B. LAYMAN,
(*Successor to S. A. Warden*),
State's Attorney of Perry County, Illinois,
CHARLES W. FIRKE,
(*Successor to Thomas J. Kastel*),
State's Attorney of Piatt County, Illinois,
JOHN W. BROWNING,
State's Attorney of Pope County, Illinois,
C. S. MILLER,
State's Attorney of Pulaski County, Illinois,
ALFRED D. RIESS,
State's Attorney of Randolph County, Illinois,
STEPHEN C. LEWIS,
(*Successor to H. G. Morris*),
State's Attorney of Richland County, Illinois,
219 JAMES B. LEWIS,
(*Successor to Sam Thompson*),
State's Attorney of Saline County, Illinois,
C. F. MORTIMER,
(*Successor to Edmund Burke*),
State's Attorney of Sangamon County, Illinois,

A. L. YANTIS,
(Successor to W. E. Lowe),
State's Attorney of Shelby County, Illinois,
HUBERT E. SCHAUMLEFFEL,
(Successor to Charles Webb),
State's Attorney of St. Clair County, Illinois,
CHARLES H. GREEN,
(Successor to Albert H. Manus),
State's Attorney of Stephenson County, Illinois,
EDWARD E. BLACK,
(Successor to William J. Reardon),
State's Attorney of Tazewell County, Illinois,
JAMES LINGLE,
(Successor to William D. Lyerle),
State's Attorney of Union County, Illinois,
JOHN H. LEWMAN,
State's Attorney of Vermilion County, Illinois,
H. H. HOUSE,
(Successor to J. Paul Carter),
State's Attorney of Washington County, Illinois,
JOE A. PEARCE,
State's Attorney of White County, Illinois,
ROBERT W. MARTIN,
State's Attorney of Will County, Illinois,
R. R. FOWLER,
(Successor to E. M. Spiller),
State's Attorney of Williamson County, Illinois,
220 WILLIAM JOHNSON,
(Successor to Gust E. Johnson),
State's Attorney of Winnebago County, Illinois,
ERNEST J. HENDERSON,
(Successor to Thomas Kennedy),
State's Attorney of Woodford County, Illinois,
By EDWARD J. BRUNDAGE,
Attorney General of Illinois.
JAMES H. WILKERSON,
Assistant Attorney General.
TIMOTHY F. MULLEN,
Assistant Attorney General.
Solicitors and of Counsel for Defendants.

[Endorsed:] Filed Jan. 10, 1917. T. C. MacMillan, Clerk.

221 And on to-wit: the thirteenth day of February, 1917, appears in the record of proceedings in said Court, nunc pro tunc as of January tenth, 1917, before the Hon. Kenesaw M. Landis, the following entry to-wit:

No. 753 and Cases 752, 754-777, 782, 786, 801.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

Consolidated Causes.

It appearing to the Court that through inadvertance the Order of the Court made on January 10th, 1917, hereinafter set forth does not appear in the record of the proceedings in the above entitled causes for January 10th, 1917, by agreement of all the parties, it is ordered that the record in each of said causes be and the same is hereby amended so as to show the following Order and proceedings on January 10th, 1917, viz:

The defendants entered their motion for leave to file their amended answers to the original and supplemental bills. The plaintiffs objected to the entry of this Order upon the ground that the amended answers contained allegations which had been theretofore stricken out of the answers by the Order of the Special Court, and because said amended answers set up matters which said District Court was without jurisdiction to decide. The Court overruled said objection of said plaintiffs, and plaintiffs duly excepted to the ruling of the court, whereupon on motion of defendants it is ordered that
222 leave be, and the same is hereby given to file said amended answers to said original and supplemental bills, and upon motion of plaintiffs it is ordered that the motions to strike and replies of the plaintiffs to the original answers shall stand to the amended answers and to the answers to the second supplemental bill, and to the answer of defendant, Edward J. Brundage, Attorney General.

And the record herein is hereby amended as above stated and the clerk is hereby directed to enter the above Order nunc pro tunc as of January 10th, 1917.

Enter:

KENESAW M. LANDIS, *Judge.*

223 And on to-wit: the twenty-ninth day of January, 1917, in the record of proceedings in the cause entitled, Vandalia Railroad Company vs. State Public Utilities Commission of Illinois, et al. Number 776, before the Hon. Kenesaw M. Landis, District Judge, appears the following entry to-wit:

776.

VANDALIA RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

This cause coming on for hearing, and Loesch, Scofield, Loesch & Richards, solicitors for the plaintiff, having suggested to the court that heretofore the said plaintiff, Vandalia Railroad Company, became consolidated with certain other railroad corporations under the name of The Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company;

And the court being fully advised in the premises, and it appearing that since the beginning of this suit the Vandalia Railroad Company, plaintiff, has become consolidated with certain other railroad corporations under the name of The Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company;

224 It is therefore ordered that the said The Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company be subrogated for the Vandalia Railroad Company herein and that said cause proceed hereafter in the name of The Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company as plaintiff.

In open Court this 29th day of January, A. D. 1917.

KENESAW M. LANDIS,
United States Judge.

225 And on to-wit: the thirteenth day of January, 1917, being one of the days of the December, 1916, Term of said Court in the record of proceedings in said entitled cause, before the Hon. Kenesaw M. Landis, District Judge appears the following entry to-wit:

No. 753, and Cases Nos. 752, 754-777, 782, 786, 801 (Consolidated Cases in Equity).

ILLINOIS CENTRAL RAILROAD COMPANY

v.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

This cause came on to be heard at this term, upon pleadings and proofs and was argued by counsel; and thereupon, upon consideration thereof it was ordered, adjudged, and decreed that the Bill of Complaint, Supplemental Bill of Complaint, and Second Supplemental Bill of Complaint be, and the same are hereby dismissed for want of equity, at plaintiffs' costs.

226 And on to-wit: the third day of February, 1917, there was filed in the clerk's office of said Court in said entitled cause,

a certain Stipulation for the Consolidation of Causes for the purpose of Appeal. Said Stipulation is in the words and figures following to-wit:

227 *Stipulation for the Consolidation of Causes.*

Whereas, the causes in equity hereinafter named were instituted in the District Court of the United States for the Northern District of Illinois, Eastern Division, at about the same time; and,

Whereas, said causes involve practically the same matter and the bills filed in each of said causes pray for substantially the same relief; and,

Whereas, an application was made in each of said causes for an interlocutory injunction, and said causes were consolidated for the purpose of hearing said application; and,

Whereas, said causes were consolidated for the purpose of final hearing in said Court; and,

Whereas, the same final decree has been rendered in each of said causes; and,

Whereas, it is the intention of the complainants in each of said causes to pray and prosecute an appeal from said decree and judgment to the Supreme Court of the United States; and,

Whereas, it will avoid unnecessary costs and delay to consolidate said causes so that the same may be appealed as one cause to the Supreme Court of the United States,

Therefore, it is stipulated by the parties to said causes that the following entitled causes, viz:

Chicago, Burlington & Quincy Railroad Company vs. State Public Utilities Commission of Illinois et al., No. 752; Chicago & Alton Railroad Company vs. State Public Utilities Commission of Illinois et al., No. 754; Chicago Great Western Railroad Company
228 vs. State Public Utilities Commission of Illinois, et al., No. 755; Michigan Central Railroad Company vs. State Public Utilities Commission of Illinois et al., No. 756; Chicago & Illinois Midland Railway vs. State Public Utilities Commission of Illinois et al., No. 757; Chicago, Milwaukee & St. Paul Railway Company vs. State Public Utilities Commission of Illinois et al., No. 758; Wm. J. Jackson, Receiver, Chicago & Eastern Illinois Railroad vs. State Public Utilities Commission of Illinois et al., No. 759; Jacob M. Dickinson, Receiver, Chicago, Rock Island & Pacific Railway Company vs. State Public Utilities Commission of Illinois et al., No. 760; Walter L. Ross, Receiver, Toledo, St. Louis & Western Railroad Company vs. State Public Utilities Commission of Illinois et al., No. 761; Cleveland, Cincinnati, Chicago & St. Louis Railway Company vs. State Public Utilities Commission of Illinois et al., No. 762; Lake Erie & Western Railroad Company vs. State Public Utilities Commission of Illinois et al., No. 763; New York Central Railroad Company vs. State Public Utilities Commission of Illinois et al., No. 764; Bluford Wilson and William Cotter, Receivers, Chicago, Peoria & St. Louis Railroad Company

vs. State Public Utilities Commission of Illinois et al., No. 765; Wabash Railway Company vs. State Public Utilities Commission of Illinois et al., No. 766; Minneapolis, St. Paul & Sault Ste. Marie Railway Company vs. State Public Utilities Commission of Illinois et al., No. 767; B. F. Bush, Receiver, St. Louis, Iron Mountain & Southern Railway Company et al. vs. State Public Utilities Commission of Illinois et al., No. 768; Minneapolis & St. Louis Railway Company vs. State Public Utilities Commission of Illinois et al., No. 769; Toledo, Peoria & Western Railway Company vs. State Public Utilities Commission of Illinois et al., No. 770; Cincinnati, Indianapolis & Western Railroad Company vs. State Public Utilities Commission of Illinois et al., No. 771; Louisville & Nashville Railroad Company vs. State Public Utilities Commission
229 of Illinois et al., No. 772; Mobile & Ohio Railroad Company vs. State Public Utilities Commission of Illinois et al., No. 773; Southern Railway Company vs. State Public Utilities Commission of Illinois et al., No. 774; Baltimore & Ohio Southwestern Railroad Company vs. State Public Utilities Commission of Illinois et al., No. 775; The Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company vs. State Public Utilities Commission of Illinois et al., No. 776; Atchison, Topeka & Santa Fe Railway Company vs. State Public Utilities Commission of Illinois et al., No. 777; Rock Island Southern Railway Company vs. State Public Utilities Commission of Illinois et al., No. 782; Illinois Southern Railway Company vs. State Public Utilities Commission of Illinois et al., No. 786 and Chicago and Northwestern Railway Company vs. State Public Utilities Commission of Illinois et al., No. 801, may be consolidated with the cause of Illinois Central Railroad Company vs. State Public Utilities Commission of Illinois et al., No. 753, so that said causes may all be appealed to the Supreme Court as one consolidated cause; that for the purposes of said appeal all the pleadings, orders and proceedings in any of said causes respectively may be made pleadings, orders and proceedings in said consolidated cause; that in the preparation of the record on appeal pleadings, orders and proceedings which are common to all of said causes shall be so certified and pleadings, orders and proceedings which are applicable to only a particular cause or causes shall be so certified; that a single certificate of evidence shall be filed which shall show the evidences common to all of said causes and which shall show separately the evidences which is applicable to a particular case or particular cases; that the rights of all of the parties to each of said causes shall remain and be determined precisely as if a separate appeal had been taken in each case, it being the sole purpose of this stipulation to obviate the unnecessary labor and expense of preparing records on appeal, which in many respects are identical.

W. S. HORTON,
A. P. HUMBURG,
J. G. DRENNAN,
CALHOUN, LYFORD & SHEEAN,
V. W. FOSTER,
Solicitor for Complainant, Illinois Central Railroad Company, in Cause No. 753.

R. B. SCOTT,
Solicitor for Complainant, Chicago, Burlington & Quincy Railroad Conmany, in Cause No. 752.

SILAS H. STRAWN,
Solicitor for Chicago & Alton Railroad Company, Complainant in Cause No. 754.

230 JOHN BARTON PAYNE,
Solicitor for Complainant, Chicago Great Western Railroad Company, in Cause No. 755.

WINSTON, PAYNE, STRAWN & SHAW,
Solicitors for Complainant, Michigan Central Railroad Company, in Cause No. 756.

WINSTON, PAYNE, STRAWN & SHAW,
Solicitors for Complainant, Chicago & Illinois Midland Railway, in Cause No. 757.

O. W. DYNES,
Solicitor for Complainant, Milwaukee & St. Paul Railway Company, in Cause No. 758.

HOMER T. DICK AND
CLARENCE B. CARDY,
Solicitors for Complainant, Wm. J. Jackson, Receiver Chicago & Eastern Illinois Railroad, in Cause No. 759.

M. L. BELL,
W. F. DICKINSON AND
A. B. ENOCH,
Solicitors for Complainant, Jacob M. Dickinson, Receiver Chicago, Rock Island & Pacific Railway Company, in Cause No. 760.

CLARENCE BROWN,
Solicitor for Complainant, Walter L. Ross, Receiver Toledo, St. Louis & Western Railroad Company, in Cause No. 761.

E. T. GLENNON,
ROBERT J. CARY,
BERTRAND WALKER,
Solicitors for Complainant, Cleveland, Cincinnati, Chicago & St. Louis Railway Company, in Cause No. 762.

E. T. GLENNON,
ROBERT J. CARY,
BERTRAND WALKER,
Solicitors for Complainant, Lake Erie & Western Railroad Company, in Cause No. 763.

E. T. GLENNON,
ROBERT J. CARY,
BERTRAND WALKER,
Solicitors for Complainant, New York Central Railroad Company, in Cause No. 764.

231

P. B. WARREN,
Solicitor for Bluford Wilson and Wm. Cotter, Receivers Chicago, Peoria & St. Louis Railroad Company, in Cause No. 765.
J. L. MINNIS,
N. S. BROWN,
JOHN GIBSON HALE,
Solicitors for Wabash Railway Company, Complainant in Cause No. 766.
A. H. BRIGHT,
W. B. TYRRELL,
A. H. LOSSOW,
JOHN L. McINERY,
Solicitors for Complainant, Minneapolis, St. Paul & Sault Ste. Marie Railway Company, in Cause No. 767.
H. G. HERBEL,
FRED G. WRIGHT,
Solicitors for Complainant, B. F. Bush, Receiver St. Louis, Iron Mountain & Southern Railway Company et al. in Cause No. 768.
SHIRLEY T. HIGH,
W. H. BREMMER,
Solicitors for Complainant, Minneapolis & St. Louis Railway Company, in Cause No. 769.
STEVENS, MILLER & ELLIOTT,
J. M. ELLIOTT,
Solicitors for Complainant, Toledo, Peoria & Western Railway Company, in Cause No. 770.
J. G. MOORE,
Solicitor for Complainant, Cincinnati, Indianapolis & Western Railroad Company, in Cause No. 771.
J. M. HAMMIL,
F. D. MOHR,
Solicitors for Louisville & Nashville Railroad Company, Complainant in Cause No. 772.
F. C. KRAMER,
Solicitor for Mobile & Ohio Railroad Company, Complainant in Cause No. 773.
F. C. KRAMER,
A. P. HUMPHREY,
Solicitors for Complainant, Southern Railway Company, in Cause No. 774.
F. C. KRAMER,
Solicitor for Complainant, Baltimore & Ohio Southwestern Railroad Company, in Cause No. 775.

232 LOESCH, SCOFILED, LOESCH & RICHARDS,
P. B. WARREN,
Solicitors for Complainant, in Cause No. 776, The Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company.
ROBERT DUNLAP,
T. J. NORTON,
S. T. BLEDSOE,
Solicitors for Complainant, Atchison, Topeka & Santa Fe Railway Company, in Cause No. 777.
R. B. SCOTT,
Solicitor for Complainant, Rock Island Southern Railway Company, in Cause No. 782.
F. C. KRAMER,
Solicitor for Complainant, Illinois Southern Railway Company, in Cause No. 786.
C. C. WRIGHT,
ROBERT H. WIDDECOMBE,
Solicitors for Complainant, Chicago and North Western Railway Company, in Cause No. 801.
EDWARD J. BRUNDAGE,
Attorney General.
JAMES H. WILKERSON,
Solicitors for Defendants in Each Case Except United States and Interstate Commerce Com.

[Endorsed:] Filed Feb. 3, 1917. T. C. MacMillan, Clerk.

233 And on the same day, to-wit: the third day of February, 1917, in the record of proceedings thereof, in said entitled cause, before the Hon. Kenesaw M. Landis, District Judge, appears the following entry, to-wit:

234 In the District Court of the United States for the Northern District of Illinois, Eastern Division.

753.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, and WILLIAM L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw and Frank H. Funk, as Members of and Constituting the State Public Utilities Commission of Illinois; Edward J. Brundage, Attorney General of Illinois et al., Defendants.

No. 753 Upon the Docket of This Court.

By order of the Court made this 3rd day of February, 1917, the following cases:

No. 752 Upon the Docket of This Court.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 754 Upon the Docket of This Court.

CHICAGO & ALTON RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 755 Upon the Docket of This Court.

CHICAGO GREAT WESTERN RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 756 Upon the Docket of This Court.

MICHIGAN CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

235 No. 757 Upon the Docket of This Court.

CHICAGO & ILLINOIS MIDLAND RAILWAY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 758 Upon the Docket of This Court.

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 759 Upon the Docket of This Court.

WM. J. JACKSON, Receiver Chicago & Eastern Illinois Railroad,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 760 Upon the Docket of This Court.

JACOB M. DICKINSON, Receiver Chicago, Rock Island & Pacific Railway Company,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 761 Upon the Docket of This Court.

WALTER L. ROSS, Receiver Toledo, St. Louis & Western Railroad Company,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 762 Upon the Docket of This Court.

CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 763 Upon the Docket of This Court.

LAKE ERIE & WESTERN RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 764 Upon the Docket of This Court.

NEW YORK CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 765 Upon the Docket of This Court.

BLUFORD WILSON and WM. COTTER, Receivers Chicago, Peoria & St. Louis Railroad Company,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 766 Upon the Docket of This Court.

WABASH RAILWAY COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 767 Upon the Docket of This Court.

MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE RAILWAY COMPANY

vs.

STATE PUBLIC UTILITIES COOMMISSION OF ILLINOIS et al.

236 No. 768 Upon the Docket of This Court.

B. F. BUSH, Receiver St. Louis, Iron Mountain & Southern Railway Company et al.

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 769 Upon the Docket of This Court.

MINNEAPOLIS & ST. LOUIS RAILWAY COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 770 Upon the Docket of This Court.

TOLEDO, PEORIA & WESTERN RAILWAY COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 771 Upon the Docket of This Court.

CINCINNATI, INDIANAPOLIS & WESTERN RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 772 Upon the Docket of This Court.

LOUISVILLE & NASHVILLE RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 773 Upon the Docket of This Court.

MOBILE & OHIO RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 774 Upon the Docket of This Court.

SOUTHERN RAILWAY COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 775 Upon the Docket of This Court.

BALTIMORE & OHIO SOUTHWESTERN RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 776 Upon the Docket of This Court.

PITTSBURG, CINCINNATI, CHICAGO & ST. LOUIS RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 777 Upon the Docket of This Court.

ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 782 Upon the Docket of This Court.

ROCK ISLAND SOUTHERN RAILWAY COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

237 No. 786 Upon the Docket of This Court.

ILLINOIS SOUTHERN RAILWAY COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 801 Upon the Docket of This Court.

CHICAGO & NORTHWESTERN RAILWAY COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

are consolidated with the above entitled cause No. 753, and this consolidated cause may proceed on an appeal from this Court to the Supreme Court of the United States under the title of the above entitled cause No. 753; and the pleadings, orders and proceedings heretofore had in said causes respectively are hereby made pleadings, orders and proceedings in this consolidated cause, as per stipulation of the parties to all of said causes filed herein, and the certificate of evidence in said consolidated cause shall be prepared in accordance with the terms of said stipulation and the rights of the parties on appeal preserved as stated in said stipulation.

KENESAW M. LANDIS.

238 And on to-wit: the eighth day of February, 1917, there was filed in the clerk's office of said Court, in said entitled cause, a certain Statement of Evidence, together with Appendix thereto attached in words and figures following to-wit:

239 In the District Court of the United States, Northern District of Illinois, Eastern Division.

In Equity.

Before Hon. Kenesaw M. Landis, District Judge, Presiding.

No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

No. 752.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

vs.

Same.

No. 754.

CHICAGO & ALTON RAILROAD COMPANY

vs.

Same.

No. 755.

CHICAGO GREAT WESTERN RAILROAD COMPANY

vs.

Same.

No. 756.

MICHIGAN CENTRAL RAILROAD COMPANY

vs.

Same.

No. 757.

CHICAGO & ILLINOIS MIDLAND RAILWAY

vs.

SAME.

No. 758.

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY

vs.

SAME.

No. 759.

WM. J. JACKSON, Receiver Chicago & Eastern Illinois Railroad,

vs.

SAME.

No. 760.

JACOB M. DICKINSON, Receiver Chicago, Rock Island & Pacific Railway Company,

vs.

SAME.

No. 761.

WALTER L. ROSS, Receiver Toledo, St. Louis & Western Railroad Company,

vs.

SAME.

No. 762.

CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY

vs.

SAME.

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No. 763.

LAKE ERIE & WESTERN RAILROAD COMPANY

vs.

SAME.

No. 764.

NEW YORK CENTRAL RAILROAD COMPANY

vs.

SAME.

No. 765.

BLUFORD WILSON and WM. COTTER, Receivers Chicago, Peoria & St. Louis Railroad Company,

VS.

SAME.

No. 766.

WABASH RAILWAY COMPANY

VS.

SAME.

No. 767.

MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE RAILWAY COMPANY

VS.

SAME.

No. 768.

B. F. BUSH, Receiver St. Louis, Iron Mountain & Southern Railway Company et al.,

VS.

SAME.

No. 769.

MINNEAPOLIS & ST. LOUIS RAILROAD COMPANY

VS.

SAME.

No. 770.

TOLEDO, PEORIA & WESTERN RAILWAY COMPANY

VS.

SAME.

No. 771.

CINCINNATI, INDIANAPOLIS & WESTERN RAILROAD COMPANY

VS.

SAME.

No. 772.

LOUISVILLE & NASHVILLE RAILROAD COMPANY

vs.

SAME.

No. 773.

MOBILE & OHIO RAILROAD COMPANY

vs.

SAME.

No. 774.

SOUTHERN RAILWAY COMPANY

vs.

SAME.

No. 775.

BALTIMORE & OHIO SOUTHWESTERN RAILROAD COMPANY

vs.

SAME.

No. 776.

PITTSBURG, CINCINNATI, CHICAGO & ST. LOUIS RAILROAD COMPANY

vs.

SAME.

No. 777.

ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY

vs.

SAME.

241

No. 782.

ROCK ISLAND SOUTHERN RAILWAY COMPANY

vs.

SAME.

No. 786.

ILLINOIS SOUTHERN RAILWAY COMPANY

vs.

SAME.

No. 801.

CHICAGO & NORTH WESTERN RAILWAY COMPANY

vs.

SAME.

Statement of Evidence.

Be it remembered and certified, That on the final hearing of the above entitled causes, commencing January 9, 1917, and ending January 13, 1917, before the Honorable Kenesaw M. Landis, District Judge, presiding, and upon the plaintiffs' bills of complaint, their first supplemental bills of complaint and their second supplemental bills of complaint, the defendants' answers and amended answers to all of said bills, and the plaintiffs' replies to such answers and amended answers, the following evidence was offered, received, or ruled out, as stated below, the appearances for the parties, plaintiffs and defendants, being as follows:

Appearances of Attorneys for Plaintiffs.

W. S. Horton and A. P. Humburg for Illinois Central Railroad Company in said Case No. 753;

R. B. Scott for Chicago, Burlington & Quincy Railroad Company in said Case No. 752; also for Rock Island Southern Railway Company in said Case No. 782;

John Barton Payne and Silas H. Strawn for Chicago & Alton Railroad Company in said Case No. 754; also for Chicago Great Western Railroad Company in said Case No. 755; also for Michigan Central Railroad Company in said Case No. 756; also for Chicago & Illinois Midland Railway in said Case No. 757;

O. W. Dynes for Chicago, Milwaukee & St. Paul Railway Company in said Case No. 758;

Homer T. Dick for Wm. J. Jackson, Receiver, Chicago & Eastern Illinois Railroad in said Case No. 759;

W. F. Dickinson for Jacob M. Dickinson, Receiver, Chicago, Rock Island & Pacific Railway Company in said Case No. 760;

242 Walter A. Eversman for Walter L. Ross, Receiver, Toledo, St. Louis & Western Railroad Company in said Case No. 761;

Robert J. Cary for Cleveland, Cincinnati, Chicago & St. Louis Railway Company in said Case No. 762; also for Lake Erie & Western

Railroad Company in said Case No. 763; also for New York Central Railroad Company in said Case No. 764;

P. B. Warren for Bluford Wilson and Wm. Cotter, Receivers, Chicago, Peoria & St. Louis Railroad Company in said Case No. 765;

John Gibson Hale for Wabash Railway Company in said Case No. 766;

A. H. Bright and J. L. McInerney for Minneapolis, St. Paul & Sault Ste. Marie Railway Company in said Case No. 767;

H. G. Herbel and Fred G. Wright for B. F. Bush, Receiver, St. Louis, Iron Mountain & Southern Railway Company et al., in said Case No. 768;

Shirley T. High for Minneapolis & St. Louis Railroad Company in said Case No. 769;

J. M. Elliott for Toledo, Peoria & Western Railway Company in said Case No. 770;

J. G. Moore for Cincinnati, Indianapolis & Western Railroad Company in said Case No. 771;

J. M. Hammill and E. D. Mohr for Louisville & Nashville Railroad Company in said Case No. 772;

E. C. Kramer for Mobile & Ohio Railroad Company in said Case No. 773; also for Southern Railway Company in said Case No. 774; also for Baltimore & Ohio Southwestern Railroad Company in said Case No. 775; also for Illinois Southern Railway Company in said Case No. 786;

A. P. Humphrey for Southern Railway Company;

Robert W. Richards for Pittsburg, Cincinnati, Chicago & St. Louis Railroad Company in said Case No. 776;

T. J. Norton and S. T. Bledsoe for Atchison, Topeka & Santa Fe Railway Company in said Case No. 777;

R. H. Widdicombe and C. C. Wright for Chicago & North-Western Railway Company in said Case No. 801.

Appearances for Defendants.

James H. Wilkerson and Timothy F. Mullen for all defendants, and Richard W. Ropiequet for the state's attorney of St. Clair County, Illinois.

243 In Illinois Central Case, No. 753.

Plaintiff's Evidence in the Case of Illinois Central Railroad Company vs. State Public Utilities Commission et al., No. 753.

(*a*) Reports, findings and orders of Interstate Commerce Commission, also tariffs of Illinois Central R. R. Co.

And thereupon the plaintiff, Illinois Central Railroad Company, to sustain the issues upon its part in said cause Illinois Central Railroad Company v. State Public Utilities Commission of Illinois et al., No. 753, through its counsel, offered and there were received and read in evidence Plaintiff's Exhibits 1, 2, 3 and 4, respectively;

(1) Said Plaintiff's Exhibit 1, being a certified copy of the report of the Interstate Commerce Commission made July 12, 1916, 41 I. C. C., 13, attached to which is the order of said Commission made on the same day.

(2) Said Plaintiff's Exhibit 2, being a certified copy of the report of the Interstate Commerce Commission made on September 6, 1916, modifying its previous order so as to make it become effective November 16, 1916, instead of October 16, 1916.

(3) Said Plaintiff's Exhibit 3, being a certified copy of the order of the Interstate Commerce Commission made on October 11, 1916, postponing until the further order of the Interstate Commerce Commission said order of July 12, 1916, and

(4) Said Plaintiff's Exhibit 4, being a certified copy of the supplemental report made by the Interstate Commerce Commission on October 17, 1916, and its order of the same date, vacating its said order of July 12, 1916, and substituting therefor said order of October 17, 1916.

Said Plaintiff's Exhibits 1 to 4, inclusive, are attached to and a part of the plaintiff's bill of complaint, there marked Exhibits A, B, C and D, and admitted by the defendants' answers.

And thereupon the plaintiff, Illinois Central Railroad Company, through its counsel, offered in evidence 12 certificates of
244 George B. McGinty, Secretary of the Interstate Commerce Commission, under the seal of said Commission (marked Plaintiff's Exhibits 5 to 16, both inclusive), said certificates certifying that the schedules of tariffs attached to and described in said certificates, respectively, are true copies of the schedules filed with the Interstate Commerce Commission on November 29, 1916, except that the schedules named in Plaintiff's Exhibits 8, 9, 10, 11, 13 and 14, respectively, were filed with said Commission on December 1, 1916.

And thereupon the plaintiff, Illinois Central Railroad Company, through its counsel, also offered in evidence two certificates of R. V. Prather, Secretary of the State Public Utilities Commission of Illinois, under the seal of said Commission (marked Plaintiff's Exhibits 17 and 18) certifying that there were filed in the office of said Commission on November 27, 1916, the tariffs named in said certificates, respectively, and that said tariffs attached to said certificates are correct and complete copies of said several tariffs so filed with said Commission.

To which offer of Plaintiff's Exhibits 5 to 16, inclusive, and Plaintiff's Exhibits 17 and 18, the defendants objected on the ground that the plaintiff should first obtain an order of the Interstate Commerce Commission approving said tariffs as being in compliance with the terms of its said order. Said objection was overruled by the court, and exception was taken by the defendants.

All of said certificates and tariffs were accordingly received and read in evidence and, as so marked, Plaintiff's Exhibits 5 to 16, inclusive, and Plaintiff's Exhibits 17 and 18 are attached hereto and made a part hereof.

It is stipulated of record that the operation of all of said intrastate fares named in said tariffs filed by the plaintiff with the State Public Utilities Commission of Illinois, pursuant to said order of the Interstate Commerce Commission made October 17, 1916, was sus-
245 pended by said State Public Utilities Commission of Illinois on December 27, 1916, until May 1, 1917. The orders made by the State Public Utilities Commission of Illinois in this case are the same in form as those made in all of the other cases consolidated herewith with reference to the tariffs involved in these cases. Said form is as follows:

Before the State Public Utilities Commission of Illinois.

5947.

In the Matter of Proposed Advances of Passenger Fares, Stated in Local Passenger Tariff C-3, I. P. U. C. No. 275, of the Illinois Central Railroad Company.

Suspension Order.

On November 27, 1916, the Illinois Central Railroad Company filed with this Commission Local Passenger Tariff C-3, I. P. U. C. No. 275, proposing to advance passenger fares in the State of Illinois, and it is proposed in the said Tariff that such advanced fares shall become effective January 1, 1917.

It appears from an examination of the aforesaid Tariff, that this Commission should enter upon a hearing concerning the propriety of the proposed advances of passenger fares, and that pending the hearing and the decision thereon, the said advanced fares should not become effective.

It is therefore ordered that the proposed advanced passenger fares, stated in Local Passenger Tariff C-3, I. P. U. C. No. 275, of the Illinois Central Railroad Company, be, and the same are hereby, suspended until May 1, 1917.

By order of the Commission, at Springfield, Illinois, this 27th day of December, 1916.

[Seal of Commission.]

(Signed) R. V. PRATHER, *Secretary.*

To avoid encumbering the record with said tariffs, which are voluminous, and to save the cost of printing them in the record, the defendants reserving their objection and exception to the ruling of the court last above noted, it is hereby stipulated by and between the plaintiff and defendants that said tariffs embraced in Plaintiff's Exhibits 5 to 18, inclusive, which tariffs state that they were published and established in compliance with the order of the Interstate Commerce Commission in said Case No. 8083, may be omitted from the printed record, and that in lieu thereof the following statement of the contents of said tariffs may be substituted in the printed record, viz.:

1. All interstate fares in said tariffs named for the transportation of passengers between St. Louis, Mo., and points in Illi-
246 nois on the line of the plaintiff Illinois Central Railroad have been constructed and established upon the basis of 2.4 cents per mile, bridge tolls excepted, which bridge tolls are not in excess of those found reasonable by the Commission, and the said fares became effective on January 1, 1917.

2. All interstate fares in said tariffs named for the transportation of passengers over the line of the plaintiff, Illinois Central Railroad, in Illinois and over its connecting lines to Keokuk, Iowa, from points in Illinois on the line of the plaintiff have been constructed and established upon the basis of 2.4 cents per mile, bridge tolls excepted, which bridge tolls are not in excess of those found reasonable by the Commission. Said interstate fares became effective on January 1, 1917.

3. All fares in said tariffs named for the transportation of intrastate and interstate passengers over the lines of the plaintiff, Illinois Central Railroad, in Illinois

(*a*) between East St. Louis, Ill., and points in Illinois,

(*b*) between points in Illinois intermediate between St. Louis, Mo., and points in Illinois,

(*c*) between points directly opposite Keokuk, Iowa, and points in Illinois,

(*d*) between points in Illinois intermediate between Keokuk, Iowa, and points in Illinois,

(*e*) between Chicago, Ill., and points in Illinois, and

(*f*) between points in Illinois intermediate between Chicago, Ill., and points in Illinois,

(*g*) and generally between points in Illinois,

have been constructed and established upon the basis of 2.4 cents per mile; and all of the tariffs naming said fares were filed with the Interstate Commerce Commission and with the State Public Utilities Commission of Illinois more than thirty days prior to their effective date, viz.: January 1, 1917; and the operation of all of said intrastate fares was suspended by the State Public Utilities Commission of Illinois on December 27, 1916, until May 1, 1917.

4. Said tariffs name fares from and to every point in Illinois on the lines of the plaintiff to and from St. Louis, Missouri, Chicago, Illi-
nois, and Keokuk, Iowa, and said tariffs also name tariffs
247 from and to every point on the lines of the plaintiff in Illinois to and from every other point on said lines in Illinois, and in combination with other roads plaintiffs in the cases consolidated with this case, to and from other points in Illinois, and all of said fares have been constructed upon the basis of 2.4 cents per mile as stated in the next paragraph of this stipulation, with the exception of fares between suburban points hereinafter referred to in the testimony of witness Lanigan.

5. All of said interstate passenger fares and said intrastate passenger fares in said tariffs named are constructed upon the basis of 2.4 cents per mile for each mile of travel between any two points therein

named, and where the competition of a shorter line between said two points makes necessary the adoption of the fare of said shorter line, the latter fare, which is adopted as the fare for both the longer and shorter line, is universally constructed upon the basis of 2.4 cents per mile for the distance via said shorter line; and that such practice of the longer lines meeting the competition of the shorter line was likewise followed in the construction and use of intrastate-Illinois passenger fares in effect between points in Illinois upon the basis of 2 cents per mile since the enactment of said Illinois 2-cent fare statute.

6. It is further stipulated that said tariffs shall be transmitted as a part of the statement of evidence and of the record on appeal and all parties reserve the right to have any portion thereof added to the printed record which may be deemed necessary to the consideration of any question that may be raised on this appeal, the parties hereto having made this summary of said tariffs for the convenience of the court, but not having intended in any way to make any statement at variance with the provisions of said tariffs.

(*b*) *Lanigan's Oral Evidence on Direct Examination, in Illinois Central Case No. 753.*

Mr. J. V. LANIGAN, being first duly sworn on behalf of the plaintiff, testified: I reside in Chicago, Ill.; my occupation is Assistant General Passanger Agent of the Illinois Central Railroad Company; my first traffic experience was with the Chicago, Burlington &
248 Quincy Railroad Passenger Department in the general office in 1892; I held various clerical positions there until 1902, when I was made Passenger Rate Clerk, the duties of that position being to compile tariffs and construct passenger fares; I held that position until 1904, when I took a similar position with the Missouri, Kansas & Texas Railway in St. Louis, Mo. In 1906 I went with the Illinois Central Railroad Passenger Department in the general office, as Rate Clerk, the duties of that position being to construct passenger fares and make passenger tariffs. In 1908 I was made Chief Rate Clerk in charge of the Passenger Rate Department. In 1911 I was appointed Assistant General Passenger Agent, which is my present position, and the duties of which require me to personally supervise and direct the making of passenger fares for the Illinois Central Railroad and The Yazoo & Mississippi Valley Railroad.

I am familiar with the manner of constructing passenger fares in the State of Illinois and surrounding states. The Illinois Central operates in quite an extensive territory, it operates in Central, Western, Southeastern, Southwestern, and in Trans-Continental territories. Its operations take in practically all territories west of Buffalo, N. Y., and Pittsburgh, Pa.

Passenger fares are constructed upon the basis per mile multiplied by distance. As a Rate Clerk, in compiling our own fares and in comparing our fares with the fares of our competitors, I have had opportunities to observe this method of constructing fares in Illinois and

elsewhere. Such work gives one the opportunity to gain a general knowledge of the basis generally used all over the country.

All of the tariffs filed and offered in evidence in this case were published under my personal supervision and direction.

The present basis for the construction of passenger fares in Illinois is the distance basis of 2 cents per mile; that basis has been in
249 effect since July 1, 1907; from July 1, 1904, to December 1, 1914, the basis for the construction of the interstates fares between St. Louis, Mo., and points in Illinois was 2 cents per mile, plus the bridge toll per passenger of 35 cents between St. Louis, Mo., and Granite City, Ill., and 25 cents between St. Louis, Mo., and East St. Louis, Ill.; on December 1, 1914, the interstate fares between St. Louis, Mo., and points in Illinois were advanced to the basis of 2.5 cents per mile, plus the bride tolls. There was no corresponding advance then made in the passenger fares between points wholly within the State of Illinois. In the Western Passenger Fares Case (37 I. C. C., 1) on or about January 1, 1916, the Interstate Commerce Commission fixed the basis of fares on the Illinois Central Railroad west of Chicago, Ill., at 2.4 cents; the fares on that basis were combined with the fares south of Chicago on the basis of 2.5 cents per mile for transportation between St. Louis, Mo., and the territory in Illinois west of Chicago.

Following the Interstate Commerce Commission's order of October 17 1916 (Plaintiff's Exhibit 4), the plaintiff filed new tariffs, placing the interstate fares involved upon the basis of 2.4 cents per mile, plus the bridge toll.

The Court: Every calculation in these tariffs, intrastate and interstate, is based on a 2.4-cent mile basis, exclusive of the bridge toll? (Referring to Plaintiff's Exhibits 5 to 18, both inclusive.)

Mr. Lanigan: Yes.

Mr. Lanigan testified further: These tariffs in evidence include all the stations upon the plaintiff's line of railroad in Illinois; I know the location of the various stations.

Mr. Humburg: Are they (stations) intermediate, meaning those in Illinois, between St. Louis, Mo, and points in Illinois and between Keokuk, Iowa, and points in Illinois?

Mr. Wilkerson: I object to that question; that is asking the opinion of the witness on the very thing as to which they should have the order of the Interstate Commerce Commission, or one of the
250 things as to which they should have the opinion of the Interstate Commerce Commission.

The Court: To state it in another way, the question is as to the geography of these places.

Mr. Wilkerson: They have asked him to state whether they are intermediate points.

The Court: Well, in between Keokuk and Chicago; in between St. Louis and Chicago. That is what your question means?

Mr. Humburg: Yes, in between St. Louis and Keokuk on the one hand and points in Illinois on the other.

Mr. Wilkerson: This witness is undertaking to substitute his defi-

nition of what is an intermediate point for what the Commission should find was an intermediate point.

Mr. Mullen: I make the further objection that it does not yet appear that the Illinois Central reaches Keokuk at all.

Mr. Humburg: Does the Illinois Central Railroad Company participate in the transportation of passengers between points on its line on the one hand, and Keokuk on the other?

Mr. Lanigan: It does.

Mr. Humburg: Does it sell tickets to or from Keokuk?

Mr. Lanigan: It does.

Mr. Humburg: In the order of October 17, 1916, in the third paragraph, it is in substance provided that the rates between St. Louis, Mo., and points in Illinois shall not be upon a basis higher than the fares contemporaneously exacted for the transportation of passengers between East St. Louis, Ill., and the same Illinois points, by more than a reasonable bridge toll. Will you tell the court whether the intrastate tariffs in evidence fixing a fare of 2.4 cents per mile between East St. Louis and the Illinois stations of the plaintiff, were made for the purpose of conforming to that requirement?

Mr. Lanigan: Yes, sir.

Mr. Wilkerson: I object to that question.

The Court: Strike out the answer. Why do you want that? Whether his motive was good—was pure or impure, or whether his object was good or bad, this thing has been done succeeding this order. How is the tariff helped or harmed by the motive of the witness or the object sought to be accomplished?

Sustained.

251 To the sustaining of which objection and the striking out of said answer the plaintiff then and there excepted.

Mr. Humburg: Have you compared the tariffs in evidence, both the interstate tariffs and the intrastate tariffs with the findings of the Commission, and with the order made on October 17, 1916, put in evidence?

Mr. Lanigan: Yes.

Mr. Humburg: In what respect if any, do these tariffs depart from those findings, and that order?

Mr. Wilkerson: I object to that question.

The Court: I do not believe I will spend any time listening to questions that are presented by such an interrogatory as that. That is not a question for expert evidence.

Mr. Horton referred to enumeration of details in tariffs; that the order of the Interstate Commerce Commission specifies certain details; that here are tariffs voluminous in detail, and that the plaintiff asks the witness if those tariffs tally with the order; that he is an expert witness and knows all the details.

The Court: What do you mean by details? Name those details you gentlemen are talking about.

Mr. Horton: This order specifies that the tariffs between St. Louis and all Illinois points shall be upon a certain basis.

The Court: Yes.

Mr. Horton: It specifies that the tariff between St. Louis and all Illinois points shall be upon the same basis?

The Court: Exactly.

Mr. Horton: It specifies that the tariff between the intermediate points in Illinois shall be upon the same basis as the rates from St. Louis to those points.

The Court: Yes.

Mr. Horton: It specifies that the rate between St. Louis and Keokuk, and the Illinois points shall be upon the same basis as to Chicago from the same points. Now, we ask the witness if he has compared them, and whether these tariffs do that.

Mr. Wilkerson: He is asking the witness to interpret an order of the Interstate Commerce Commission.

The Court: If you regard it as necessary that the witness should take the tariffs and should tell what they accomplish in re-
252 spect of the rates between St. Louis, for example, and Keokuk, or St. Louis and points intermediate to St. Louis and Keokuk in Illinois, and then you desire him to say what said relation is to the rate between Keokuk and Chicago as contemplated or suggested by your question, he may do that; but whether that is a compliance with this order or not, is not for him, although he may be a very eminent lawyer. In other words, in cases involving the construction of tariffs, all kinds of cases involving the railroad rates, where the construction of tariffs is involved, a traffic man is permitted to point out to the court that in subsection C of clause A, or paragraph 977, of section 2, 342-X, filed December 4, 1916, supplement to tariff No. 49, 846-Z, filed in 1904, and so forth, and so forth, and so forth, fixes the rate between Chicago and Milwaukee. That expert is permitted to do that in cases involving railroad rates. Whether that rate so fixed is a compliance with the Interstate Commerce Commission requirement is not for the witness. That is a legal question. Do you get the point?

Mr. Horton: I understand; if that is in the court's mind I am perfectly satisfied with that.

The Court: Am I right or wrong?

Mr. Horton: I think you are wrong, but then I am perfectly satisfied.

The Court: Sir? If I am wrong I want to get right now, because this is the time to get me right.

Mr. Horton: My idea of it, your Honor, is just this, that here is a witness who is an expert upon such questions. Here is an order which is general in its provisions in some respects. It requires certain discriminations to be removed. Here is a witness who is familiar with the manner in which rates may be combined in order to defeat a through rate, in order to give some town a preference over another town. He is familiar with that. Here is a tariff which has been prepared and we ask the witness whether, in his opinion, that tariff conforms to the requirement of the order.

The Court: I will sustain the objection.

To the sustaining of which objection the plaintiff then and there excepted.

Mr. Humburg: May I ask another question for the record. The interstate fares between St. Louis, Mo., and Keokuk, Ia., on the one hand and points on the Illinois Central Railroad in Illinois on the other having been put upon the basis of 2.4 cents per mile,
253 was it in your opinion necessary to advance to a like basis the intrastate-Illinois fares between stations on the Illinois Central Railroad in Illinois, in order to comply with the provisions of the Interstate Commerce Commission's order of October 17, 1916?

Mr. Wilkerson: The same objection.

The Court: I understood the position you gentlemen took here in arguing these legal propositions, to be the exact reverse of what you now seek to prove here. You understand, and you speak for all these plaintiffs, that the question is now open for me to decree whether or not this thing might have been obviated in some other way, and that that question of fact is before the court for determination? Is that your position?

Mr. Horton: I heard the remarks of the court as this case was argued. I agreed with the counsel who presented the railroad side, that where any controversy arose over whether there was a discrimination or not, that controversy must be determined by the Commission in the first instance; that you could not pass upon that. I understood the court, however, to say, "You aver in your bill that these tariffs conform to the order. Must you not prove that?" Now, it was only to meet what I thought was in the mind of the court that this offer was made.

The Court: Well, your question is whether this was necessary to comply with the order.

Mr. Wilkerson: The objection was simply directed at the competency of the evidence in this lawsuit.

Mr. Norton: The court has stated what I argued, and Mr. Wilkerson has admitted it, namely, whether there was a compliance with this order of the Commission or not, this court cannot determine.

The Court: No, you misunderstood me. I never said that it was not for this court as preliminary to your right to an injunctive order tying these public officials up—that it was not for the court to determine that you had not complied with the order.

Mr. Norton: I understood the ruling of the special court striking out on our motion, to be to that effect.

The Court: Well, you may reread what they said were their reasons. I am hearing this case, and I hold that having averred the order was entered, the order must be proved.

Mr. Norton: Well, we are going to do that.

254 The Court: Having averred you obeyed the order, the obedience must be proved.

Mr. Norton: We are going to do that.

The Court: Both constitute your title to relief against these defendants.

Mr. Norton: Yes, that is what we are going to do exactly.

Thereupon the court sustained said objection, to which ruling of the court the plaintiff then and there excepted.

It is stipulated of record that counsel for plaintiff made the fol-

lowing offer of proof, viz., if the court had not sustained the defendants' objection to the questions asked by counsel for plaintiff of witness Lanigan, which questions are set forth above, said witness would have made the following answer to said questions, viz.: that he had gone over in detail said various schedules of fares established by the plaintiff pursuant to said order of October 17, 1916, that he had studied the combinations possible to be made, that based upon such examination and study, it is his opinion that the interstate fares between St. Louis, Mo., and Keokuk, Iowa, and points in Illinois having been established upon the basis of 2.4 cents per mile, it is necessary, in order to comply with the said order and to avoid the various acts of undue preference and undue and unreasonable prejudice and disadvantage therein condemned, that the intrastate fares between points in Illinois named in said tariffs be likewise established upon the basis of 2.4 cents per mile.

Mr. Humburg: It appears from the certificates of the Secretary of the Interstate Commerce Commission attached to the tariffs in evidence, and marked Plaintiff's Exhibits 5 to 16, inclusive, that those tariffs attached to said certificates and naming interstate and intrastate fares, were filed with the Interstate Commerce Commission, some of them on November 29, 1916, and some on December 2, 1916. Will you state whether or not any of those tariffs filed with the Interstate Commerce Commission and in evidence here, were sus-
255 pended by that Commission in whole or in part, and whether or not they have become effective?

Mr. Lanigan: They have not been suspended by the Interstate Commerce Commission. The railroad has not received any order of suspension.

Mr. Lanigan testified further: The number of intrastate-Illinois fares (tickets) sold during the last fiscal year on the line of the Illinois Central for transportation between points in Illinois approximates about six and one-half millions for local transportation between points in Illinois exclusive of suburban traffic.

(c) Lanigan's oral evidence on cross-examination by defendants' counsel, in Illinois Central Case No. 753.

Fractions of miles were treated as one mile in applying the 2.4-cent basis. The former basis as provided by the state statute required the dropping of fractions under one-half of a mile and counting a full mile for fractions of one-half mile and over.

The Illinois Central sells through tickets from points on its lines to Keokuk, Iowa; that practice has been in vogue as long as I have any knowledge, specifically for 10 years, by examination; the existing tariffs of the Illinois Central Railroad provide through fares from points on its lines to Keokuk, Iowa; tickets are sold by agents of the Illinois Central from points on its line to Keokuk, Iowa; that is an ordinary transaction; there are no through trains running from points on the Illinois Central to Keokuk, Iowa; the passenger would have to change cars at the junction point.

The tariffs of the Illinois Central Railroad, showing fares from points on the Illinois Central to Keokuk, Iowa, are named in Illinois Central tariff I. C. C. A.-4612, Plaintiff's Exhibit 14.

Prior to the publication of this tariff, the Illinois Central
256 had similar tariffs naming fares from the principal points with bases from other points, and that would include all points.

There is a fairly heavy suburban traffic on the Illinois Central; the 2.4 cents per mile is not applied to that traffic; that suburban traffic extends from Randolph street to Matteson on the south, and to South Chicago and Blue Island (in the City of Chicago); the existing rate per mile is 2 cents per mile, on suburban points, which are not included in the tariffs offered here.

A passenger purchasing a ticket from Chicago to 57th street or 47th street in Chicago would not pay 2.4 cents.

Suburban service is separate and apart from the through service, so-called. The charges are separate. Through passengers travel on through trains, and suburban passengers travel on suburban trains. We have separate tariffs for each. Suburban service is almost entirely within the City of Chicago.

The road from Chicago to Forty-third street is included in our suburban service, just the same as Fifty-seventh street.

We have separate tickets for the suburban trains, separate ticket offices for all the suburban trains, and separate facilities for each service.

The suburban fares and other fares between Chicago and Forty-third street are different because the service is from different points. The suburban service is from Randolph street and the through service is from 12th street, Park Row.

The fares for suburban service are limited. All of the privileges which go with the purchase of a ticket under this tariff do not go with the purchase of a ticket for the suburban service.

257 We sell only one class of tickets to 57th street, and that is the suburban ticket. 43rd street is what we call a stop for our through trains, and to those through stops we sell tickets at the same fare as from all other stations in Illinois. We also sell tickets to this same point at the 2-cent basis.

Mr. Mullen: What determines whether a passenger shall pay his fare at the rate of 2 cents a mile or 2.4 a mile if he seeks to go from Chicago to 43rd street?

Mr. Lanigan: The class of service that he chooses. If he chooses through service he pays the rate for that service; if he chooses the suburban service he pays the rate for that service.

In the proposed tariffs the basis is 2.4 cents a mile, universally, throughout the State of Illinois between any two points where our line, is what we call the rate-making line, that is, the short line. That basis is used and applies in every case, wherever we control the rate, except where we come in competition with a shorter line between the same points. In some cases we meet the competition of the short line on the basis of 2.4 cents a mile (for the distance of the short line).

Mr. Mullen: And except for that one set of circumstances, the 2.4-cent basis is applied universally on your lines in Illinois under the proposed tariffs?

Mr. Lanigan: Yes, sir.

If a passenger under the proposed tariff wishes to travel over the Illinois Central from Golconda to Metropolis, in Massac County, Illinois, the 2.4-cent basis would apply between these points.

Mr. Mullen: Do you know what the intrastate passenger fare basis in Missouri is?

Mr. Horton: Objected to as not cross-examination.

The Court: Overruled.

To the overruling of which objection, the plaintiff then and there excepted.

Mr. Lanigan: I understand the present fare is 2 cents per mile.

Mr. Mullen: How long has that been the basis in Missouri for intrastate travel?

258 Mr. Horton: Same objection.

The Court: Overruled.

To the overruling of which objection, the plaintiff then and there excepted.

Mr. Lanigan: I should say from 1908 or 1909.

Mr. Mullen: In what other states are intrastate fares constructed on the basis of 2 cents per mile as the maximum?

Mr. Horton: Same objection, not cross-examination and immaterial.

The Court: You may give the intrastate rates which your company charges in the states where it operates its trains.

To which ruling of the court, the plaintiff then and there excepted.

Mr. Lanigan: In Indiana, Illinois, Iowa, South Dakota, and Minnesota, 2 cents, as intrastate fares for intrastate travel. We charge 3 cents a mile in Wisconsin on intrastate travel and that was so from 1906, and since my connection with the Illinois Central. We have no 2-cent fare states south of the Ohio River, all of our intrastate fares are 3 cents per mile south of the Ohio River.

The Court: You have a railroad running from Freeport, Ill., to Madison, Wis.?

Mr. Lanigan: Yes.

The Court: And you say that has a 3-cent rate, that is a 3-cent railroad?

Mr. Lanigan: If I may answer it this way: Under the Wisconsin 2-cent statute there are certain exceptions to the statute, and the Illinois Central is allowed an exception.

(*d*) Lanigan's re-direct examination in Illinois Central Case, No. 753.

The fractional miles as applied to interstate transportation between St. Louis, Mo., and Keokuk, Iowa, on the one hand and points in Illinois on the other were disposed of in the same manner they were disposed of in the construction of the fares and tariffs in evidence for transportation between points in Illinois.

At the time of the hearing of evidence in Business Men's
259 League of St. Louis v. A. T. & S. F. R. Co., I. C. C. Docket 8083, before the Interstate Commerce Commission, the interstate tariffs then in effect upon the basis of 2.5 cents per mile were based on the same use of fractions as that explained by me as applying to the new tariffs in evidence in the instant case.

Thereupon the plaintiff rested.

Defendants' Evidence in Illinois Central Case No. 753.

And thereupon the defendants, to sustain the issues upon their part, through their counsel, in said case entitled Illinois Central R. R. Co. v. State Public Utilities Commission et al., No. 753, offered and there was received in evidence, on behalf of the defendants, a railroad map of Illinois, marked Defendants' Exhibit 1, showing the lines of the plaintiff's railroad and of all other steam railroads in the State of Illinois. Said Defendants' Exhibit 1 is attached hereto and made a part hereof.

The defendants, through their counsel, also offered in evidence in said Case 753, Lanigan Exhibit No. 11 offered and received in evidence in Business Men's League of St. Louis v. A. T. & S. F. R. Co., Docket 8083, before the Interstate Commerce Commission, and which exhibit compares the fares charged in Illinois and other states.

Mr. Horton: That is objected to as incompetent and irrelevant so far as this case is concerned. It shows that it relates to tariffs in other states, tariffs which may be made an issue some day before the Commission when similar discrimination is charged by Iowa or some other state, but which are not involved in this hearing, which is whether this particular order is being observed by these carriers. It was a matter in issue before the Commission when they made this order, but it has had its day, and its use, and it is not competent upon this hearing, even though it is a part of the record on which these orders were made.

260 The Court: Overruled. In order that there may be no misunderstanding about what the court has in mind, the only thing that occurs to me for my determination in passing upon the question of the admissibility of that document, is whether or not the Commission had it before it in passing upon the complaint of the Business Men's League of St. Louis in the proceeding in which the order which is set out in the bill here was entered. Not whether I would say it was material, but whether they had accepted it in evidence and it was a part of their hearing.

Mr. Horton: Of course, you understand that we view this as a collateral attack upon an order.

The Court: Yes.

Mr. Horton: And that it could not be attacked in the same manner it could have been in the court at St. Louis, and that is the only way.

We object to this evidensce (Defendants' Exhibit 2), as incompetent evidence.

The Court: Overruled.

To the overruling of which objection, the plaintiff then and there excepted.

Thereupon said Lanigan Exhibit 11 was received and read in evidence and marked Defendants' Exhibit 2 and, as such exhibit is attached hereto and made a part hereof.

And thereupon counsel for defendants offered in evidence, for the limited purpose of showing what evidence or testimony was heard in the hearing before the Interstate Commerce Commission in Business Men's League of St. Louis v. A., T. & S. F. R. Co., Doc. No. 8083, a transcript of all the testimony taken in that case at the hearing on September 15 and 16, and at the second hearing on November 15 to 20, 1915, which is in four volumes (marked in the instant case as Defendants' Exhibit 3); and counsel for defendants also offered in evidence the exhibits produced at the hearing before the Examiner of the Interstate Commerce Commission in said Business Men's League of St. Louis Case, as appears by said transcript, it being stipulated between counsel for defendants and counsel for plain-
261 tiff in the instant case that, subject to the objection of the plaintiff as to competency and relevancy of said exhibits so far as the instant case is concerned, said exhibits would be checked and the missing exhibits supplied. (Said exhibits produced before the Interstate Commerce Commission in said Business Men's League of St. Louis Case are marked in the instant case Defendants' Exhibit 4.)

Mr. Horton: I understand the objection we have presented so fully will apply to Defendants' Exhibits 3 and 4. (See also further objection urged below by counsel for Atchison, Topeka & Santa Fe Ry. Co. and made a part of plaintiff's objection to said Defendants' Exhibits 3 and 4.)

To which ruling whereby said Defendants' Exhibits 3 and 4 were received in evidence, the plaintiff then and there excepted.

It is further stipulated that in order to avoid encumbering the printed record and to save the cost of printing, an abstract of said Exhibits 3 and 4 (the same being the abstract thereof prepared and presented to the Interstate Commerce Commission and as contained in the briefs submitted to the Interstate Commission Commission) shall be annexed hereto marked Exhibit 4-A and the same is hereby made a part of this statement of evidence; that in printing the record in the Supreme Court the appellant shall print said Exhibit 4-A and that the same shall be taken prima facie as a correct summary of said Exhibits 3 and 4, all of the parties hereto reserving the right to designate and to have printed any portion of said Exhibits 3 and 4 which in their judgment may be deemed necessary to a correct presentation of the evidence before the Commission, it being the purpose of this stipulation to save to the parties the same rights as if said Exhibits 3 and 4 had been printed in full, but to reduce to as small a compass as possible the portions of the record to be printed on appeal.

Said Defendants' Exhibits 3 and 4 were thereupon received in

evidence, and are shown herein as such exhibits, attached
262 hereto and made a part hereof; and it is stipulated that said defendants' exhibits 3 and 4 contain a complete transcript of all the evidence offered or received at the hearing in said case No. 8083 so far as it relates to the question of passenger fares involved in these consolidated cases.

And thereupon counsel for defendants offered in evidence a copy, certified by George B. McGinty, Secretary of the Interstate Commerce Commission, of all of the pleadings, answers, and orders entered and filed in the case of Business Men's League of St. Louis before the Interstate Commerce Commission, together with a copy of the transcript of proceedings before Commissioner Winthrop M. Daniels in Chicago, Illinois, on November 20, 1916, and copy of the answer filed for and on behalf of the State of Illinois, and the State Public Utilities Commission to said rule to show cause named in said transcript, and a copy of the answer made for and on behalf of the Chicago & Northwestern Railway Company, and the answer made for the respondents in said case No. 8083, to said answer of the State of Illinois and State Public Utilities Commission of Illinois, and stated that said pleadings, orders and papers are offered for any purpose for which they may be applicable in this case, generally to show what the issues were, among other things, and what the Commission decided.

To which offer (except as to said orders named) the plaintiff objected as incompetent, irrelevant, immaterial and for the other reasons heretofore stated concerning Defendants' Exhibits 2, 3 and 4. Said objection was overruled by the court, to which ruling of the court the plaintiff then and there excepted.

Thereupon said pleadings, answers, and orders and stenographers' notes, and other papers made a part thereof were received and read in evidence, and were marked Defendants' Exhibit 5, and as such exhibit so marked, are attached hereto and made a part hereof.

It is further stipulated that in printing said Exhibit 5 it
263 shall not be necessary to print those portions thereof which are covered by other exhibits already in evidence in this case, the same being the orders and reports contained in Plaintiffs' Exhibits 1 to 4, inclusive, but that the appellants shall print those portions of said exhibit not covered by said orders except the State Public Utilities Act made a part of said Exhibit 5, and shall indicate by appropriate reference the portions of the printed record in which said orders are set forth.

And thereupon counsel for the defendants in each of said causes offered in evidence (marked Defendants' Exhibit 6), a document which counsel said shows the operating expenses and operating returns of various railroads for the fiscal years ending June 30, 1915, and 1916, purporting to be compiled from returns to the Interstate Commerce Commission of railways having annual operating revenues above one million dollars; that it includes all or nearly all of the railroads plaintiffs in the instant cases; that said document was compiled by the Bureau of Railway Economics at Washington,

D. C., maintained by the carriers themselves for the purpose of compiling such statistics.

Mr. Scott: It is objected to on behalf of all the carriers as incompetent, irrelevant and immaterial, but it is agreed that if said document is competent, relevant or material to any issue in this case, the facts and figures therein stated are correct.

Mr. Payne: That was not offered before the Interstate Commerce Commission and does not come in under that offer here.

The Court: The application here is for an injunction. The application, if not based upon an order of the Interstate Commerce Commission, is at least related to the order. The order of the Interstate Commerce Commission which is set out in the bill, is an order in the alternative to equalize these rates by bringing it up there to 2.4 cents, or bringing it down here to 2 cents. It is in the alternative. The carrier has chosen to bring it up there rather than to bring it down here.

On the general proposition that the application for the injunction is directed to and involves the equities, I will let it go in.

264 If it ought not to be here in this case when this case is tried de novo in the Supreme Court, it will do no harm there.

I do not mean to have you infer from what I have said that I have in mind that it will be controlling, or highly influential here, but on that theory I let it go in. If the order were not in the alternative, if it was a straight 2.4-cent order, it would have no place here.

To the overruling of which objection, exception was then and there taken for the plaintiff in each of said above entitled causes.

Thereupon said document, purporting to show certain operating expenses and operating returns for the fiscal years 1915 and 1916, was received and read in evidence and marked Defendants' Exhibit 6, and as such exhibit is attached hereto and made a part hereof.

Whereupon in said Illinois Central Case No. 753 the defendant rested.

Chicago & Alton Case No. 754 and All of Said Other Cases, viz., Nos. 752, 755 to 757, Incl., and Nos. 782, 786, and 801; Also in Illinois Central Case No. 753.

Plaintiff's Evidence in Said Chicago & Alton Case No. 754, *and in All of Said Other Cases, Nos.* 752, 755-777, 782, 786, *and* 801; *Also in Illinois Central Case No.* 753.

It is stipulated between counsel for the plaintiff and counsel for defendants in each of said cases as follows:

1. That there were offered, received and read in evidence on behalf of the plaintiff in each of said cases, four exhibits identical with said Plaintiff's Exhibits 1, 2, 3 and 4 in said case of Illinois Central Railroad Company v. State Public Utilities Commission of Illinois et al., No. 753, said latter Exhibits 1, 2, 3 and 4 being attached hereto and heretofore having been made a part hereof, and admitted by

defendants' answer in each of said causes, said exhibits being
265 the reports and orders made by the Interstate Commerce Commission on July 12, 1916, September 6, 1916, October 11, 1916, and October 17, 1916, in the case of Business Men's League of St. Louis v. A., T. & S. F. R. Co. et al., I. C. C. Docket 8083.

2. That in each of said above entitled causes, there were offered, received, and read in evidence tariffs established by the several plaintiffs, respectively, similar to those offered, received and read in evidence on behalf of the plaintiff in said Illinois Central Case No. 753, and subject to the same stipulations as applied to said Illinois Central tariffs, except that the tariffs of said other plaintiffs apply to the lines of said plaintiffs instead of to the lines of said Illinois Central Railroad Company; that all of said tariffs, being the ones which have been marked as exhibits in this case, are hereto attached and made a part of this statement of evidence and marked Plaintiffs' Exhibits No-. 19 to 168, respectively; that in printing the record on appeal said tariffs shall not be printed; that the stipulation which has been made as to the contents of the tariffs in the Illinois Central case is made applicable to the tariffs of each of these plaintiffs, reserving to the respective parties the right to designate portions thereof to be printed the same as is reserved in the stipulation in the Illinois Central case.

3. That the plaintiff in each of said causes, respectively, offered to prove by a competent expert witness present in court and familiar with its passenger fares and tariffs, that said tariffs and the fares therein named are in compliance with the order of the Interstate Commerce Commission made on October 17, 1916, and supplemental report of said date and the report of July 12, 1916, in the same way that such proof was tendered by the plaintiff Illinois Central Railroad in its Case No. 753, and there ruled out by the court; that the same questions asked by counsel for the Illinois Central Railroad Company of its expert witness may be considered as having been asked of a competent expert in court at the time of hearing by counsel for the plaintiff in each of said other causes as to whether or not, in the opinion of said expert, the tariffs and fares offered, received and read in evidence for and on behalf of the plaintiff in each of said causes meet the requirements of said order of the Inter-
state Commerce Commission of October 17, 1916, by an ad-
266 vance of fares to the basis of 2.4 cents per mile as applied to the transportation of passengers between points in Illinois on the lines of said plaintiffs. respectively, inasmuch as the interstate fares between St. Louis, Mo., and Keokuk, Iowa, on the one hand and points in Illinois on the lines of said plaintiffs, respectively, on the other hand, had been fixed and became effective upon the basis of 2.4 cents per mile.

4. That counsel for plaintiff in each case made the following offer of proof, viz., if said expert witnesses for the plaintiff in said other causes, respectively, had been permitted to answer said questions, they would have made answer that they had gone over in detail said various schedules of fares established by the plaintiffs,

respectively, pursuant to said order of October 17, 1916, that they studied the combinations possible to be made, that based upon such examination and study, it is their opinion, respectively, that since the interstate fares between St. Louis, Mo., and Keokuk, Iowa, on the one hand and points in Illinois on the lines of the plaintiffs, respectively, on the other hand, have been established and become effective upon the basis of 2.4 cents per mile, bridge tolls excepted, it is necessary in order to comply with the said order of the Interstate Commerce Commission of October 17, 1916, and to avoid the various acts of undue preference and undue and unreasonable prejudice and disadvantage therein condemned, that the intrastate fares between points in Illinois named in said tariffs be likewise established upon the basis of 2.4 cents per mile.

That the State Public Utilities Commission of Illinois suspended until May 1, 1917, the operation of all the tariffs of all the plaintiffs filed with Commission, pursuant to said order of the Interstate Commerce Commission of October 17, 1916.

By stipulation between counsel for the plaintiff Wilson, Receiver, Chicago, Peoria & St. Louis Railway Company, Case No. 765, and counsel for defendants in said case, it was agreed that a certified copy of the decree of the District Court of the United States for the Southern District of Illinois, Northern Division, granting an injunction against the Attorney General of the State of Illinois with
267 respect to the 2-cent maximum fare law of the state, may be received and read in evidence, and marked C., P. & St. L. Exhibit No. 1, and the same was accordingly received, read and so marked; and as such exhibit, so marked, is attached hereto and made a part hereof.

The Court: You have a 3-cent rate, haven't you?

Mr. Warren: We have this situation, that at competitive points we have followed the other railroads, at their 2-cent rate, and when they raised to 2.4 cents on the interstate points we followed them again there, and as to that particular part only are we asking relief in this case. That is, that we may maintain the same relative situation as has been in existence heretofore.

The Court: You have a 3-cent fare between non-competitive points, have you not?

Mr. Warren: Between noncompetitive points we have a 3-cent rate.

And thereupon, in the cases by the Baltimore & Ohio Southwestern Railroad Company, No. 775, Southern Railway Company, No. 774, and Mobile & Ohio Railroad Company, No. 773, it was stipulated between the plaintiffs and defendants, subject to the defendants' right to find out that the showing is not in error, that there is a contract between said plaintiffs and the Terminal Railroad Association of St. Louis, whereby said plaintiffs operate passenger trains between St. Louis, Mo., and over the lines of said plaintiffs into and through the State of Illinois.

And thereupon, in the case of Chicago, Milwaukee & St. Paul Railway Company v. State Public Utilities Commission et al., No. 758, an illustrative map was filed, received and marked C. M. & St.

P. Exhibit A in said cause, as part of the tariffs of said plaintiff, showing by color scheme the way in which the joint fares of the Chicago, Milwaukee & St. Paul Railway and other lines are applied over its road between St. Louis, Mo., and Keokuk, Iowa, on the one hand and stations on its line in Illinois on the other, since that road, like some of the other plaintiffs' lines, reaches neither St.
268 Louis nor Keokuk with its own rails. Said C. M. & St. P. Exhibit A, as such exhibit so marked, is attached hereto and made a part hereof.

And thereupon, pursuant to agreement between counsel for plaintiffs and counsel for defendants in each of said causes, the counsel for plaintiffs offered in evidence to the same effect as if the same had been testified to by witnesses called for that purpose, the number of intrastate-Illinois passenger tickets sold for transportation between points in Illinois by the several plaintiffs, respectively, during the fiscal year ended June 30, 1916, viz.,

	Tickets.
Illinois Central Railroad Company (estimated)	6,500,000
Chicago, Burlington & Quincy R. R. Co	4,117,508
Chicago & North Western Ry. Co	3,322,029
Chicago & Alton R. R. Co	2,563,770
Chicago, Rock Island & Pacific Ry. Co	1,774,244
Chicago & Eastern Illinois R. R. Co	1,500,803
Wabash Ry. Co. (estimated)	1,477,426
Rock Island Southern Ry. Co	1,097,567
Baltimore & Ohio Southwestern R. R. Co	1,091,682
Toledo, Peoria & Western Ry. Co	965,000
Vandalia R. R. Co	700,866
Louisville & Nashville R. R. Co	545,010
Atchison, Topeka & Santa Fe Ry. Co	496,967
Chicago & Illinois Midland Ry. Co	279,912
Cincinnati, Indianapolis & Western R. R. Co	275,232
Toledo, St. Louis & Western R. R. Co	238,022
Illinois Southern Ry. Co	238,003
Lake Erie & Western Ry. Co	230,000
Mobile & Ohio R. R. Co	219,444
St. Louis, Iron Mountain & Southern Ry. Co	184,067
Minneapolis & St. Louis R. R. Co	167,395
Chicago Great Western R. R. Co	153,336
Minneapolis, St. Paul & Sault Ste Marie Ry. Co	130,573
Chicago, Milwaukee & St. Paul Ry. Co	1,637,807
Chicago, Peoria & St. Louis Ry. Co	570,882
Southern Railway Co. (estimated)	300,000
New York Central R. R. Co	165,727
Michigan Central R. R. Co	1,076
Cleveland, Cincinnati, Chicago & St. Louis Ry. Co	1,648,362

269 *Defendants' Evidence in said Chicago & Alton Case No. 744, and in All of Said Other Cases, viz., Nos. 752, 755 to 777, Incl., and Nos. 782, 786 and 801. Also in Illinois Central Case No. 753.*

And thereupon the defendants, to sustain the issues upon their part, offered and there was received and read in evidence, the stipulation made of record between counsel for the plaintiffs and counsel for the defendants, in each and all of said causes, that the same evidence offered by the defendants in the case of Illinois Central Railroad Company v. State Public Utilities Commission of Illinois et al., No. 753, was offered by the defendants in each of said other causes, that the same objections were made by counsel for plaintiffs, that the rulings of the court thereon were in said other causes the same as were the rulings of the court in said Illinois Central Case, No. 753, and that an exception was taken to each of said rulings by the plaintiff in each of said cases.

Further objections of plaintiffs to receipt in evidence in Atchison, Topeka & Santa Fe Ry. Case, No. 777, and in each and all of said other cases, viz., Nos. 753, 752, 754-776, incl., 782, 786 and 801.

And thereupon the following objections were made and reasons urged by counsel for the Atchison, Topeka & Santa Fe Railway Company Case, No. 777, to the introduction and receipt in evidence in said case, of the transcript of evidence and exhibits introduced and received in the case of Business Mens' League of St. Louis v. A. T. & S. F. R. Co., Doc. 8083, and the same objections were made and reasons urged by counsel for the plaintiff in each and all of said other causes, viz.:

The introduction of the record of the Interstate Commerce Commission, or any part thereof for the purpose of questioning the jurisdiction of the Commission, or the validity of its decision and
270 order, or for the purpose of raising the issue that there was no evidence before the Commission to support its order; or for the purpose of raising the issue that the order of the Interstate Commerce Commission as made was not complied with by the carriers, is objected to for the following reasons:

First. It has already been held in this proceeding that a collateral attack upon the order of the Interstate Commerce Commission cannot be made under Section 266 of the Judicial Code; but, that the validity of the Commission's order must be questioned in a direct attack under the Act of October 22, 1913.

Second. Because the introduction of the record before one judge under Section 266 of the Judicial Code, in which the United States has not consented to be sued, instead of before three judges under the Act of October 22, 1913, in which the United States has consented to be sued in cases involving a challenge of the validity of an order of the Interstate Commerce Commission, is in plain violation of the intent and act of Congress.

Third. Because the introduction of such evidence is prohibited by

Section 267 of the Judicial Code where the parties have an edequate remedy at law.

Fourth. Because the defendants have an adequate remedy at law under Section 16-*a* of the Act to Regulate Commerce, while persons claiming to be aggrieved who were not parties to the proceeding before the Commission have a remedy at law under Section 13 of said Act. The defendants are given a further remedy at law by Section 43 of the Illinois Public Utilities Law, reading as follows:

"The Commission shall have the power to investigate all existing or proposed interstate rates or other charges, and classifications, and all rules and practices in relation thereto, of any public utility, where any act in relation thereto shall take place within this state; and when the same are, in the opinion of the Commission, excessive or discriminatory or in violation of the Act of Congress en-
271 titled 'An Act to Regulate Commerce,' approved February fourth, eighteen hundred and eighty-seven, and the acts amendatory thereof and supplementary thereto, or of any other Act of Congress or in conflict with the rulings, orders or regulations of the Interstate Commerce Commission, the Commission may apply by petition or otherwise to the Interstate Commerce Commission or to any court of competent jurisdiction for relief."

Fifth. Because a finding of discrimination by the Interstate Commerce Commission is, under the ruling of the Supreme Court of the United States, final and not reviewable.

Sixth. Because whether the carriers complied with the order of the Interstate Commerce Commission in filing the tariffs which they filed, involves primarily the ascertainment of whether there is discrimination or not, and that is a fact which can be ascertained only by the Interstate Commerce Commission, and, therefore, evidence on this subject goes to a matter of which this court has no jurisdiction.

Seventh. Because the Supreme Court has held (Pennsylvania, etc., v. International, etc., 230 U. S., 197) that the tariffs filed by the carriers in compliance with law are a statute and must be obeyed, and it was not the purpose of Section 266 of the Judicial Code, under which this proceeding is pending, to question the validity of a Federal statute or act of Congress.

For those reasons the Santa Fe objects to the offer of the record of the Interstate Commerce Commission or any part thereof.

The Court: Are there any other motions or any other objections by any of the other parties for the reasons mentioned by Mr. Norton in his motion or objection? This is overruled and the plaintiff excepts. Do the rest of you participate in that objection?

Mr. Scott: The Burlington makes the same objection.

Mr. Humburg: The Illinois Central makes the same objection.

Mr. Wilkerson: Let the record show the same objection in all the cases.

To the overruling of which objection, the plaintiff in each case then and there excepted.

272 It is stipulated that as to all exhibits made part of this statement of evidence, the clerk of the District Court may transmit

to the clerk of the Supreme Court on appeal the originals of said exhibits in lieu of copies thereof.

It is further stipulated that there shall be prepared by the appellants, for the convenience of the court, an appendix to this statement of evidence, which appendix shall contain a description of each of said exhibits and be marked "Appendix to Statement of Evidence" and the same is hereby made a part hereof when prepared and filed.

The above and foregoing was all the evidence offered or received in said cases.

Opinion of the District Court.

And after hearing all the evidence and the argument of counsel, both for the plaintiffs and for the defendants, the court on, to wit: January 13, 1917, rendered its opinion as follows:

The Court: In the matter of the Atchison, Topeka & Santa Fe Railway Company, Chicago, Burlington & Quincy Railway and other railway companies, plaintiffs, against the Illinois State Public Utilities Commission and prosecuting attorneys of the several counties in the State of Illinois, being bills for injunctions restraining the defendants from exercising various powers conferred by Illinois statutes, and from prosecuting the plaintiffs for failure to carry passengers in Illinois at the Illinois statutory rate, the several proceedings being on final hearing, the proof having been tendered by the plaintiffs and the defendants, and now ready for decree:

The bill alleges, after appropriate allegations of citizenship and amount involved, that the Interstate Commerce Commission, in a proceeding instituted before it, entered an order, an alternative order, requiring the plaintiffs in these suits, to end certain discriminatory practices, found by the Commission to exist. That to comply with that order of the Commission the carriers had prepared schedules of rates and tariffs. That the Illinois authorities mentioned as
273 defendants, were obstructing and threatening to further obstruct the plaintiffs from rendering obedience to the Commission's order, and that unless the court should enjoin these defendants from doing these things so threatened, there would be a multiplicity of suits without justification or foundation, against the plaintiffs, wherefore the injunction was prayed.

The averment of the bill giving the plaintiff title to this injunctive relief is the order of the Interstate Commerce Commission, and the plaintiffs' obedience to that order. That is to say, the plaintiffs' filing of the tariffs, as the plaintiffs aver the order required them to do, is charged by the plaintiffs in the several bills in connection with the averment that the order had been entered, as entitling the plaintiffs to this injunctive relief.

Now, in the course of the proceedings various questions arose, questions of procedure, questions of jurisdiction, questions of pleadings, to which it is not necessary at this time to revert, further than to recall the position of the plaintiffs respecting the necessity of proof of the bills. The averment being that the Commission entered the order, that the railway carriers plaintiff obeyed the order, filing the

thing the order required the carrier to file, the position of the plaintiffs being that proof beyond the entry of the order and the filing of schedules regardless of their contents, entitled the plaintiff to this injunctive relief. And the position of the plaintiffs in reply to inquiries from the bench was that these averments which I have referred to were what are called in pleading mere matters of inducement.

Of course, it is not necessary to speak further on that point. On reflection the counsel will not adhere to that suggestion.

So the cause got to the point where the proof had to be offered. Proof of the order and proof of compliance with the order, which compliance the court conceived it to be within his power and the rights of the litigants to cast upon the court the obligation to inspect these schedules to see whether the things the plaintiffs proposed to do were required or authorized by the order of the Commission, and if so, whether the order of the Commission was authorized by
274 the Constitution of the United States and by Congress, the creator of the Commission.

The Constitution of the United States contains a clause which we have come to call familiarly the Commerce Clause. The clause is a granting of power by those who framed that document, to their instrumentality, the Federal Government, of all the power that they who framed the document had; all that power they gave to Congress to regulate commerce among the several states. Beyond that they did not go, and the inquiry here is the inquiry that the courts have been answering for a hundred years,—is the thing now invoked within that power?

The existing lawful rate in the State of Illinois between points in Illinois for the transportation of passengers is two cents per mile to-day. It was made two cents a mile by the statute of the state, that being within its undoubted power. I say acting within its undoubted power; it passed the law ten years ago, all these plaintiffs have obeyed the law for ten years without a single court proceeding attacking it on the ground of unconstitutionality, as being confiscatory, save only a proceeding by the Chicago, Peoria & St. Louis Railway Company, a company operating a line of railroad down through the southwestern part of the state, and a company which has put in practically its entire life in the Federal Court. So there is no significance from the fact that the Chicago, Peoria & St. Louis Railway Company has assailed the two-cent rate as confiscatory.

So we have a lawful two-cent rate, and it is proposed to suspend it and supersede it, and the question arises at the threshold,—how can that lawfully be done?

It may be done by the Illinois State Legislature, or it may be done by the Congress of the United States, if doing the thing comes within the exercise of the power of Congress to regulate commerce between the states.

275 Of course, in the absence of some special line of reasoning, something that would except such a situation from the application of the general rule, no one would assert that intra-Illinois

rates were within the power of Congress. The claim is that these intra-Illinois rates fall within the power of Congress to regulate interstate commerce because the intra-Illinois rate, being two cents a mile and lower than the rate authorized by Congress, to be charged passengers in interstate commerce, effect a discrimination as to two localities, the petitioners in the proceeding before the Interstate Commerce Commission in which the order was entered, which is the basis of these bills.

Now, if that be true in fact, under the rule laid down by the Supreme Court of the United States in what is known as the Shreveport case, the field is brought within the control of Congress; and, if it be not true in fact, the field remains outside the control of Congress, and the inquiry is, does the thing which the plaintiff asks this court to exercise its power over as against the power of the State, come within the rule laid down by the Supreme Court in the Shreveport case?

Now, this was the Shreveport case. There is a railroad running from Shreveport, Louisiana, westward across the State of Texas. In the State of Texas, for the purposes of this particular subject, there are two cities, one westerly from Shreveport toward the western side of Texas; the other not far from Shreveport on the line of road toward the first mentioned point in Texas. The location of Shreveport is in Louisiana. The location of these two Texas points was such, relatively, that when freight left Shreveport to go to that Texas point on this line of railroad nearest Shreveport, it had a short distance to travel, very short compared with the distance that the same package of freight to the same destination would have had to travel if it originated at the westernmost point in Texas on this line of railroad.

Now, the Texas authorities evidently looked that situation
276 over, and it was attractive to them, the Texas Railroad Commission, and so they fixed what must appear to all of us as an absurd rate from the farthermost Texas point to this eastern Texas point on freight traffic, and the railway carrier, under an order of the Interstate Commerce Commission, fixed a relatively much higher rate for carrying the same kind of traffic from Shreveport to the same destination.

So the court had before it the question whether or not that was a discrimination against Shreveport, such as under the Interstate Commerce Law, enacted under the commerce clause of the Constitution, the Interstate Commerce Commission had power to remedy; and the court held that the Commission had the power and that the power might be exercised by an alternative order, under which order the railway company might either bring the intra-Texas rate up to the higher interstate rate fixed by the Commission as reasonable; or they might bring the higher interstate rate down to the level of the lower intra-Texas rate. That volition the court held was with the carrier. The carrier chose to exercise it by bringing up the intra-Texas rate, which as I have indicated, the Supreme Court of the United States held was the removal of a discrimination prohibited by the Interstate

Commerce Law, and required by the statutes relating to interstate commerce to be remedied by the Commission on appropriate application.

So the court has held that where there is in fact a discrimination against a locality in interstate commerce, it is within the power of the Commission to remove the discrimination by requiring the carrier to raise its intrastate rates, so that they will be equal to the interstate rates operative against the complaining locality.

Now, in this case, the St. Louis Board of Trade applied to the Interstate Commerce Commission, and they asserted that there was in Illinois a two-cent rate. That there was operative between St. Louis, Missouri, and this Illinois territory, a higher rate fixed
277 by the carriers serving this same Illinois territory.

That across the river from St. Louis were two or three localities, East St. Louis, Granite City, and Madison. That by reason of this two-cent Illinois statute people traveling from points north of these three Illinois cities would come to these three Illinois cities at two cents a mile, whereas, if they should travel from these northern points to St. Louis, Missouri, they would have to pay 2.4 cents a mile. That that had resulted in discrimination against St. Louis, Missouri, a discrimination which the St. Louis Board of Trade, the Business Men's League, asked the Commission to remedy.

The Commission issued an order against all the railroads in Illinois, practically, brought them in as respondents to this complaint. They came in. The Keokuk Board of Trade, being an organization at Keokuk, Iowa, came in as an intervener. The Chicago Business Men's Association, the Association of Commerce, came in as interveners. The Illinois Public Utilities Commission came in as an intervener, and evidence was taken, disclosing the general situation as to traffic to and from St. Louis, to and from Keokuk, from points in Illinois; and disclosing the general conditions of traffic in the State of Illinois between points in Illinois; disclosing railroad earnings; comparing these conditions in Illinois with conditions in other parts of the country; exhibiting railroad earnings, earnings per passenger mile, and generally elucidating and illuminating the entire subject of railroad operation in Illinois, and to St. Louis and Keokuk as interstate, or as intrastate.

During the progress of this hearing it appeared that many passengers that were bound to St. Louis bought tickets to East St. Louis from Illinois points at two cents a mile, and then at East St. Louis they would rebuy tickets across the bridge to St. Louis; and, conversely, that passengers from St. Louis to Illinois points would buy tickets across the bridge and then buy tickets in East St. Louis
278 to points in Illinois at two cents a mile. That was one of the items of proof in the case, and it appears in the proof that that is done to a very substantial extent. That was offered in evidence, with other proof, to establish the fact of discrimination. As a result of all of which proof, and I do not go into it in detail,—as a result of all of which proof the Interstate Commerce Commission entered an order in July, which order was suspended; and subsequently another order was entered, which other order is the basis of this application for

injunction, and as to the meaning of which other order the counsel in this case have had a dispute, but as to the meaning of which order in the judgment and opinion of this court, there can not be any dispute. The undoubted purpose, and undoubted effect, of the words the Commission used in its order of October 16th, was to completely nullify the Illinois two-cent rate, was to kill the Illinois two-cent statute, and substitute for it the authority of the Interstate Commerce Commission of the United States, on the theory that the subsitution was not merely authorized, but required in the discharge of its duty.

And that brings us to a consideration of that order and what has happened since, which will lead us to a point where the question to be decided in this case will be so plain that we will cease talking about this being a great lawsuit.

The carriers took the order of the Commission, which is in the alternative, an order which requires the carriers to cease and desist practicing this discrimination against St. Louis and against Keokuk, by doing one of two things; either raising the Illinois two-cent rate to 2.4 cents a mile, which the Commission finds is a reasonable interstate rate; or by reducing the 2.4 cents interstate rate to the two cents Illinois rate.

So far, no violence done to the Illinois statute, because nothing is required to be done that will lay a profane hand on the Illinois statute.

The carrier took the order and decided not to remove the
279 discrimination by reducing the interstate 2.4-cent rate to 2 cents, but decided to remove the discrimination, that is to relieve St. Louis,—that is to remove the discrimination as to St. Louis and Keokuk, which complained only of discrimination,—decided to remove that discrimination by raising the Illinois rate to 2.4 cents. So, instead, as we have been talking here for days, lawyers and judges, about the Interstate Commerce Commission order having repealed the Illinois statute, the fact is it was the traffic official of the railway, when he exercised his choice under this alternative order, who repealed the Illinois statute and made that statute, in the view of the counsel for these plaintiffs, unconstitutional. If that traffic official had chosen the other alternative, the Illinois statute would still stand and no constitutional question would be in the case.

Now, what has the traffic official done? When he chose to raise the Illinois rate to the interstate 2.4-cent rate, he looked carefully over this order of the Commission and he found out that that order of the Commission contained such an arrangement of English words that he need not limit himself to relieving St. Louis and relieving Keokuk, but he was given the permission and authority to substitute a 2.4-cent rate between all intra-Illinois points. It is true he called it relieving St. Louis and relieving Keokuk, but, gentlemen, no place outside of a court room would any man be heard to assert that when you require the passenger traveling from Evanston to Wilmette to pay 7 cents instead of 6 cents, you are relieving St. Louis, Missouri, and Keokuk, Iowa, of a discrimination. Now, that is a fair test of this question, because that is what the railway com-

pany has done; and, when the railway company does it, it says it does it solely to relieve St. Louis and Keokuk of a discrimination.

Mr. Norton: My company did not take that position.

The Court: I have heard you gentlemen at great length, and now I desire you to hear me for just a few minutes longer. I am
280 doing the best I can with the situation you brought to me.

The position of the carriers is that to relieve St. Louis and Keokuk, it is essential, choosing the alternative that they have chosen, when the passenger gets on at Englewood to ride to Blue Island, to charge him 2.4 cents instead of 2 cents, to relieve St. Louis and to relieve Keokuk.

Now, that is what this case is, reduced to its finality, and I am asked to enter an order enjoining the State's Attorney of Cook County from proceeding to prosecute the North Western Railway Company if it refuses to transport from Lake Forest to Highland Park, a passenger at 2 cents per mile, the Illinois lawful rate.

So much for a statement of the case. If Terre Haute, Indiana, has a business men's league, if the situation presented to me authorizes me to enjoin the defendants as prayed, and that Terre Haute business men's league would go to the Interstate Commerce Commission, St. Louis not having gone, Keokuk not having gone, nobody having gone, and should represent to the Interstate Commerce Commission that across the line at Paris, Illinois, there were commercial houses in competition with the Terre Haute houses, and that because of an Illinois 2-cent rate business in Illinois would go to Paris, purchasers of commodities would travel to Paris and stop, who otherwise would come to Terre Haute and make their purchases otherwise, in the absence of a 2.4 cents interstate rate,—the position of the plaintiffs is that if Terre Haute filed such a petition before the Commission and asked for such relief, showing what the St. Louis Board of Trade showed here as to discrimination, that the Interstate Commerce Commission would have the power to enter an alternative order which would give to a railway traffic official the power to raise rates between Freeport and Rockford, between Golconda and
281 Reevesville, in order to relieve Terre Haute, Indiana, of that discrimination. That is this case, and that is not an extreme statement of this case.

The question remains, has the existing lawful 2-cent rate been suspended. The only way it can be suspended so that the order can go against this Utilities Commission, so that the order may tie the hands of the prosecuting officers, is that it shall be superseded by a rate authorized by law. The only way that rate can be established is by the State Legislature, which has not acted, or by the Interstate Commerce Commission, in the exercise of its power to avoid discrimination.

It is my opinion and conclusion that there is no earthly power, no possible power in the Interstate Commerce Commission, under the guise of relieving St. Louis and Keokuk of discrimination, to repeal the Illinois 2-cent fare law.

Under Judge Hughes' decision it has the power to supersede that

law in so far as the superseding of that law is necessary to relieve St. Louis and Keokuk of this discrimination. They have not chosen to limit their action to that result, a result which is the only result that the petitioning Board of Trade asked, a result which is the only result that the Keokuk Board of Trade asked; but they have, for some reason, gone beyond and carried their action to the finality that the court has indicated, which, in my view, as I said a while ago, presents a question that is easy of solution, namely, that it is completely and obviously, beyond the power of the Commission.

The bill being without equity it will be dismissed for want of equity. The order will apply to each of the plaintiffs.

You may present your certificate of evidence for the reviewing court in such time and under such terms as is agreed upon.

282 And inasmuch as the matters above set forth do not fully appear of record in said above entitled causes, the plaintiffs in said causes tender this statement of evidence and pray that the same may be certified under the hand and seal of the Judge of said Court, and thereby made a part of the record in said causes, and it is certified accordingly this 8" day of February, A. D. 1917.

KENESAW M. LANDIS, [SEAL.]
Judge.

Approved:

J. H. WILKERSON,
Solicitor for Defendants.

283 *"Appendix to Statement of Evidence."*

Plaintiffs' Exhibits Described.

(*a*) Reports and Orders et Cetera.

Plaintiffs' Exhibit No.

1 is a certified copy of the report of the Interstate Commerce Commission made July 12, 1916, 41 I. C. C., 13, attached to which is the order of said Commission made on the same day.

2 is a certified copy of the report of the Interstate Commerce Commission made on September 6, 1916, modifying its previous order so as to make it become effective November 16, 1916, instead of October 16, 1916.

3 is a certified copy of the order of the Interstate Commerce Commission made on October 11, 1916, postponing until the further order of the Interstate Commerce Commission said order of July 12, 1916.

4 is a certified copy of the supplemental report made by the Interstate Commerce Commission on October 17, 1916, and its order of the same date, vacating its said order of

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July 12, 1916, and substituting therefor said order of October 17, 1916. 41 I. C. C., 503.

NOTE.—Said Exhibits 1 to 4, inclusive, are the same as Exhibits A, B, C and D to bill of complaint.

C. P. & St. L. Exhibit 1 is a certified copy of the decree of the District Court of the United States for the Southern District of Illinois, Northern Division, granting an injunction against the attorney general of the State of Illinois with respect to the 2-cent maximum fare law of Illinois as applied to passenger traffic over the Chicago, Peoria & St. Louis Railway.

C. M. & St. P. Exhibit A is a map, showing by color scheme the way in which joint fares of the Chicago, Milwaukee & St. Paul Railway and other lines are applied over its road between St. Louis, Mo., and Keokuk, Iowa, on the one hand and stations on its line in Illinois on the other.

284 (*b*) Tariff Naming Passenger Fares.

Plaintiffs' Exhibit Nos.

5 to 18, inclusive, are the certificates of the secretary of the Interstate Commerce Commission and of the secretary of the State Public Utilities Commission of Illinois, and certified copies of said tariffs, naming fares for the transportation of passengers interstate between St. Louis, Mo., and Keokuk, Iowa, and points in Illinois, and interstate and intrastate between points in Illinois, established and filed by the Illinois Central Railroad Company.

NOTE.—Plaintiff's Exhibits 19 to 168, inclusive, are similar certificates and certified copies of similar tariffs naming similar fares for similar transportation, which tariffs and fares were established and filed by the following roads:

19 to 25, inclusive, by Chicago, Burlington & Quincy Railroad Company.
26 to 34, inclusive, by Chicago & Alton Railroad Company.
35 to 37, inclusive, by Chicago Great Western Railroad Company.
38 to 40, inclusive, by Michigan Central Railroad Company.
41 and 42, by Chicago & Illinois Midland Railway.
43 to 48, inclusive, by Chicago, Milwaukee & St. Paul Railway Company.
49 to 59, inclusive, by Wm. J. Jackson, Receiver, Chicago & Eastern Illinois Railroad.
60 to 65, inclusive, by Jacob M. Dickinson, Receiver, Chicago, Rock Island & Pacific Railway Company.
66 and 67, by Walter L. Ross, Receiver, Toledo, St. Louis & Western Railroad.

68 to 80, inclusive, by Cleveland, Cincinnati, Chicago & St. Louis Railway Company.
81 to 85, inclusive, by Lake Erie & Western Railroad Company.
86 to 92, inclusive, by New York Central Railroad Company.
93 to 99, inclusive, by Bluford Wilson and Wm. Cotter, Receivers, Chicago, Peoria & St. Louis Railroad.
100 to 107, inclusive, by Wabash Railway Company.

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108 to 111, inclusive, by Minneapolis, St. Paul & Sault Ste. Marie Railway Company.
112 and 113, inclusive, by B. F. Bush, Receiver, St. Louis, Iron Mountain & Southern Railway Company et al.
114 to 116, inclusive, by Minneapolis & St. Louis Railroad Company.
117 to 120, inclusive, by Toledo, Peoria & Western Railway Company.
121 to 125, inclusive, by Cincinnati, Indianapolis & Western Railroad Company.
126 to 130, inclusive, by Louisville & Nashville Railroad Company.
131 to 134, inclusive, by Mobile & Ohio Railroad Company.
135 to 139, inclusive, by Southern Railway Company.
140 to 145, inclusive, by Baltimore & Ohio Southwestern Railroad Company.
146 to 152, inclusive, by Pittsburgh, Cincinnati, Chicago & St. Louis Railroad Company.
153 to 156, inclusive, by Atchison, Topeka & Santa Fe Railway Company.
157 and 158, by Rock Island Southern Railway Company.
159 to 162, inclusive, by Illinois Southern Railway Company.
163 to 168, inclusive, by Chicago & North Western Railway Company.

Defendants' Exhibits Described.

Defendants' Exhibit No.

1 is a railroad map of Illinois, showing lines of Illinois Central Railroad and of all other steam railroads in Illinois.

2 is a copy of Lanigan Exhibit 11 offered and received in evidence in Business Men's League of St. Louis v. A. T. & S. F. R. Co., Docket 8083, before the Interstate Commerce Commission, and which exhibit compares the passenger fares charged in Illinois and with fares in other states.

3 is a transcript of all the testimony taken in said case, Business Men's League of St. Louis v. A. T. & S. F. R.
286 Co., Docket 8083, at the hearing on September 15 and 16 and November 15 to 20, 1915, which is in four volumes, pages 1 to 1753, inclusive.

4 are the exhibits produced at said hearing before the In-

terstate Commerce Commission in said Business Men's League of St. Louis Case (which exhibits are further described below).

4-A is abstract of Defendant's Exhibits 3 and 4.

5 are certified copies of all pleadings, answers, and orders entered and filed in said Business Men's League of St. Louis Case, Doc. 8083, before the Interstate Commerce Commission, together with transcript of proceedings before Commissioner Daniels on November 20, 1916, and other papers described below, viz.:

A. Petition of Business Men's League of St. Louis, Mo., filed June 14, 1915.

B. Answers of respondents to complainants' said petition.

C. Intervening petition of Chicago Association of Commerce.

D. Intervening petition of State Public Utilities Commission of Illinois. Exhibit A to said petition is the statute of Illinois, entitled, "An Act to provide for the regulation of public utilities," this being the statute creating the Utilities Commission.

E. Intervening petition of the Keokuk Industrial Association.

F. Intervening petition of East Side Manufacturers' Association.

G. Intervening petition of the State of Illinois and the people of the State of Illinois.

H. Report and order of Interstate Commerce Commission made July 12, 1916. (Same as Plaintiffs' Exhibit 1.)

I. Order of Interstate Commerce Commission made September 6, 1916. (Same as Plaintiffs' Exhibit 2.)

J. Order of Interstate Commerce Commission, made October 11, 1916. (Same as Plaintiffs' Exhibit 3.)

K. Supplemental report of the Interstate Commerce Commission, and its order, made October 17, 1916. (Same as Plaintiffs' Exhibit 4.)

287 L. Petition of complainant Business Men's League of St. Louis to make Chicago & North Western Railway Company defendant.

M. Order on said petition made November 13, 1916, that all parties appear before Commissioner Daniels in Chicago, Ill., at Federal Building November 20, 1916, 12:30 P. M., to show cause why C. & N. W. Ry. Co. should not be made party defendant to said proceeding and have entered against it all the orders heretofore entered against other parties defendant.

N. Transcript of stenographer's notes of said last named hearing.

O. Response to said order of November 13, 1916, by State of Illinois, State Public Utilities Commission of Illinois, and attorney general of Illinois.

P. Answer of Chicago & North Western Railway Company to said response.

Q. Answer of defendants to complainants' original petition to said response of the State Public Utilities Commission of Illinois and the attorney general of Illinois.

R. Order of Interstate Commerce Commission of December 4, 1916, that Chicago & North Western Railway be and is made party defendant to said Business Men's League of St. Louis Case, and that all orders previously issued be made to run against it as of January 25, 1917.

6 is a statement showing operating expenses and operating returns of various railroads for the fiscal years ended June 30, 1915, and 1916, purporting to be compiled from returns to the Interstate Commerce Commission of railways having annual operating revenues above $1,000,000.

288 Exhibits Embraced in Defendants' Exhibit 4.

Titles and short description of exhibits submitted to and received by Interstate Commerce Commission in Business Men's League of St. Louis v. A. T. & S. F. R. Co. et al., I. C. C. Docket 8083, being the exhibits offered and received as Defendants' Exhibit 4 in the instant case:

Versen Exhibits Nos.

1 to 14, inclusive, relate to freight rates, said exhibits being those submitted by the complainant, Business Men's League of St. Louis.

See p. 50 *a*.

Versen Exhibit 15 is a statement of 7 printed pages, naming local and basing passenger fares between East St. Louis and points in Illinois and between St. Louis and points in Illinois on Baltimore & Ohio Southwestern R. R., Chicago, Burlington & Quincy R. R., Chicago & Alton R. R., Chicago & Eastern Illinois R. R., Chicago, Peoria & St. Louis R. R., Cleveland, Cincinnati, Chicago & St. Louis R. R., Illinois Central R. R., Louisville & Nashville R. R., Mobile & Ohio Railroad, St. Louis, Iron Mountain & Southern Ry., Southern Ry., Toledo, St. Louis & Western R. R., Vandalia R. R., Wabash R. R. Distances and tariff references are shown.

Versen Exhibit 27 names passenger fares from St. Louis to points in Illinois and from Chicago to points in Illinois, for equidistances from Chicago and St. Louis, respectively, varying from 27 to 205 miles on Chicago, Burlington & Quincy R. R., Chicago & Eastern Illinois R. R., Chicago & Alton R. R., Illinois Central R. R., Wabash R. R.

See p. 50 *a*.

Lanigan Exhibits 6 and 6A are reproduced by complainants as a part of their abstract of evidence.

Lanigan Exhibits Nos.

1 Map showing all steam railroads in Illinois, their location, course, and direction.

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Versen Exhibit Nos.

16 is tariff of Baltimore & Ohio Southwestern Ry., naming passenger fares between points on that line in Illinois.
17 same as to Chicago & Alton R. R.
18 " " " Chicago & Eastern Illinois R. R.
19 " " " Cleveland, Cincinnati, Chicago & St. Louis Ry.
20 " " " Louisville & Nashville R. R.
21 " " " Mobile & Ohio R. R.
22 " " " St. Louis, Iron Mountain & Southern Ry.
23 " " " Toledo, St. Louis & Western R. R.
24 " " " Vandalia R. R. (Pa. Lines.)
25 & 26 " " " Wabash R. R.

Versen Exhibit Nos.

28 is statement of comparative passenger fares.
29 is a list of tariffs naming some of the interstate and intrastate passenger fares and freight rates involved.
30 is list of members of Business Men's League of St. Louis.
31 is tariff naming passenger fares between stations in Illinois on Southern Ry.

290 2 Statement showing fares from St. Louis, Mo., to representative points in Illinois, Indiana, Michigan, Ohio, Pennsylvania, New York and Massachusetts, from March, 1906, to October 14, 1915.

3 Statement showing fares from St. Louis, Mo., to points named in complaint, and comparing said fares with other fares between other points for approximately equal distances, and under circumstances and conditions not substantially dissimilar.

4 Statement showing fares in effect over various bridges across the Mississippi, Missouri, and Ohio Rivers, and other rivers.

5 Statement showing fares between Granite City, East St. Louis and Madison, Ill., and St. Louis, Mo., on the one hand and representative stations in Missouri from July, 1907, to October 14, 1915.

6 Statement showing combination of intrastate and interstate fares used to defeat through interstate fares—representative cases—between St. Louis, Mo., and stations in Illinois, being cases mentioned in complaint and other representative cases.

6a Statement showing examples of discrimination against St. Louis, Mo., and in favor of Chicago, Ill., on C. & E. I. R. R., C. & A. R. R., C. B. & Q. R. R., I. C. R. R. and Wabash R. R.

7 Statement showing reductions made in passenger fares per mile due to the longer lines meeting the competition of the shorter lines, interstate and intrastate, typical cases.

8 Statement comparing certain intrastate fares between points in Illinois with interstate fares between points in Illinois on the one hand and points in other states on the other for approximately equal distances.

9 Statement showing sales of one-way passenger tickets in January and June, 1913, 1914 and 1915, at all stations in Illinois from and to St. Louis, Mo., East St. Louis, Granite City, and Madison, Ill., by the following roads: Baltimore & Ohio Southwestern Ry., Chicago & Alton R. R., Chicago & Eastern Illinois R. R., Chicago, Burlington & Quincy R. R., Cleveland, Cincinnati, Chicago
291 & St. Louis Ry., Illinois Central R. R., Mobile & Ohio R. R., St. Louis, Iron Mountain & Southern R. R., Southern Ry., Louisville & Nashville R. R., and Wabash Ry.

10 Statement showing the percentage of passenger traffic over the Illinois Central which was moved on interstate fares and the percentage which was moved on intrastate fares, between Chicago, Ill., and St. Louis, Mo., during January and August, 1915.

11 Statement showing density of passenger traffic, the maximum fares, the railroad mileage, and the population per mile of road and per square mile of territory for 48 states—37 of said 48 states having maximum fares higher than 2 cents per mile.

12 Statement comparing, upon the basis of density and other methods, the passenger traffic in Illinois with the passenger traffic in New England territory, Trunk Line territory, and Central Passenger Association territory.

13 Statement giving general statistics in the Central Passenger Association territory, of which Illinois is a part, and comparing said statistics with similar statistics for New England, Trunk Lines and western territories.

14 Map of the United States, showing in colors the several passenger association territories.

15 Statement showing revenue from passengers transported (excluding suburban passengers), the average fare per passenger, the average fare per mile, and the average number of miles traveled per passenger on the line of the Illinois Central Railroad in Illinois during the years 1901 to 1907 on the one hand contrasted with the years 1908 to 1914, both inclusive, on the other hand, the two periods being divided on the date when the Illinois Maximum Two-Cent Fare Law became effective.

16 Statement showing the number of intrastate and interstate passengers carried, the number of passengers carried one mile, and the passenger revenue in the State of Illinois, for six representative trains of the Illinois Central Railroad operated in different parts of the state, for a period of five days, extending from the latter part of September until the fore part of October, 1915.

292 17 Statement showing the number of intrastate and interstate passengers carried one mile according to operating divisions, main lines and branches, in the State of Illinois, on the Illinois Central Railroad (suburban passengers excluded) during July, 1915, also intrastate and interstate passenger revenue in Illinois, separated as between so-called charter lines and remaining lines, in which manner the information was available, for the Illinois Central Railroad (suburban passengers excluded) during July, 1915.

18 Statement showing Illinois Central passenger traffic between Chicago, Ill., and St. Louis, Mo., also east side junction points (East St. Louis and Madison, Ill.), from January to August, 1914, and 1915, both months in both years, inclusive, the number of tickets sold and the proportion of traffic moved on interstate and on intrastate fares.

19 Statement showing discrepancies in distances, fares per mile, and tariff authority, as shown in Versen Exhibit No. 27 (being a criticism and correction of said Versen exhibit).

McLeod Exhibits Nos.

1 is an excerpt from the Interstate Commerce Commission's opinion in the Five Per Cent. Case, 31 I. C. C., 407, reading in part:

> "The need of additional revenues is greatest in Central Freight Association territory, and existing statutes in Ohio, Indiana, Illinois, and Michigan may be obstacles to the raising of passenger fares in those states. But we are confident that if these statutory fares are clearly shown to be unduly burdensome to the carriers, the people of those great states will cheerfully acquiesce, as the people of New England have done, in reasonable increases, and that the necessary legislative authority will be promptly given."

2 is a complete set of printed matter distributed by the Illinois carriers among the people of Illinois, detailing the situation concerning passenger fares and traffic in Illinois.

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3 and 4 are the remarks of Chairman Markham for the carriers' committee before the Governor of Illinois, and the governor's reply.

5 is a form of the petition to the legislature of Illinois bearing about 75,000 signatures petitioning the legislature "to so amend the laws of Illinois as to fix the maximum fares for passenger travel in Illinois at 2½ cents per mile, thus restoring to the railways one-half of the reduction which was made in their passenger fares when the present law, effective July 1, 1907, was enacted, reducing such fares from 3 cents to 2 cents per mile."

6 are examples of resolutions passed by commercial and shipping organizations in Illinois favoring the amending of the 2-cent maximum passenger law of Illinois.

7 are examples of editorials in metropolitan and country newspapers in Illinois giving expression to public sentiment concerning the carriers' effort to obtain an amendment of said 2-cent fare law.

8 and 9 are true copies of house and senate bills introduced in the Illinois legislature in 1915 for the amending said law so as to provide a maximum fare of 2½ cents per mile instead of 2 cents per mile.

10 is a copy of said 2-cent fare statute of 1907.

McNamara Exhibit No.

1 is a map of Illinois to indicate the 1,561.6 miles of electric railroads in Illinois, as of June 30, 1913.

Hatch Exhibit No.

1 is a statement showing cost and weight of present (1915) steel equipment in service on Illinois Central Railroad trains Nos. 19 and 20, operating between Chicago, Ill., and St. Louis, Mo., as compared with wood equipment previously in service on same trains in 1903.

Westerman Exhibit No.

1 is statement showing number of straight one-way tickets and revenue for all stations on Southern Railway in Illi-
294 nois from and to St. Louis, Mo., and East St. Louis, Ill., for 12 months ended August *August* 31, 1915, compared with 12 months ended August 31, 1913.

Sauer Exhibits Nos.

1 gives ratio of expenses to revenue on Vandalia Railroad, detail of passenger revenue, and passenger statistics from 1907 to 1915 for its St. Louis Division, embracing lines in Illinois.

2 shows proportion of intrastate passenger mileage and revenue on St. Louis Division in Illinois, of the Vandalia Railroad for fiscal years 1914 and 1915.

3 shows divisions of the general accounts of operating expenses of said St. Louis Division in Illinois of the Vandalia Railroad as between passenger and freight for the fiscal years 1907 to 1915, both inclusive.

4 is a statement of the assessments made by the Illinois State Board of Equalization on the St. Louis Division in Illinois of the Vandalia Railroad for the years 1907 to 1914, both inclusive.

5 shows the division of assessed valuation of said St. Louis Division in Illinois for the years 1907 to 1914, inclusive, on the basis of passenger and freight revenue.

Millard Exhibit No.

10 statement showing density of freight and passenger traffic on steam roads in Illinois and Indiana.

Cornick Exhibits Nos.

1 to 6 inclusive, are excerpts from reports of Louisville & Nashville R. R. Co. to Interstate Commerce Commission for years 1904 to 1915, inclusive, and as to same exhibits from 1901 to 1915 for the line extending from East St. Louis, Ill., to Evansville, Ind., showing increase in ratio of operating expenses to gross earnings, and other data.

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Maxwell Exhibit No.

1 Statement comparing for 12 roads in Illinois (each having over one million dollars gross operating revenue), their revenue and expenses and other data for years 1908 to 1914, showing, also, similar data for other shorter roads.

Wettling Exhibit Nos.

1 Statement showing mileage in Illinois and on systems on June 30 of the years 1908 to 1914, both inclusive, also average mileage operated—single track, excluding trackage rights; also average mileage operated, all tracks, excluding trackage rights, of the following roads included in the cost of road and equipment in other exhibits following this one: Baltimore & Ohio Southwestern R. R., Chicago & Alton R. R., Chicago & Eastern Illinois R. R., Chicago, Burlington & Quincy R. R., Cleveland, Cincinnati, Chicago & St. Louis Ry., Illinois Central R. R., Mobile & Ohio R. R., St. Louis, Iron Mountain & Southern R. R., Southern Ry., Toledo, St. Louis & Western R. R., Vandalia R. R.

2 to 8 Statement showing operating revenues, expenses, and net railway operating income for the fiscal years 1908 to 1914, both inclusive, for the same roads, both as to Illinois and as to their entire systems.

9 Statement showing for years 1908-1914 aggregate of operating revenue, expenses, and railway operating income for the same roads, in Illinois, and on their entire systems compared.

10 Statement showing for the same years and on the same roads the assessor's value of road for Illinois, cost of road and equipment for entire lines, average mileage operated, net operating income, per cent. of return on cost of road and equipment, and other data, (*a*) for Illinois; (*b*) for entire lines; (*c*) for entire lines, excluding Illinois.

11 Statement showing in the same three divisions, (*a*) Illinois, (*b*) entire line, and (*c*) entire line, excluding Illinois, the comparative increase, 1908 to 1914, in assessor's
296 value of road in Illinois, cost of road and equipment for system, total operating revenue, expenses, and income.

12 Statement showing freight statistics as to volume of traffic, distance hauled, average revenue per ton, and other data, (*a*) for Illinois, and (*b*) for entire systems, on the same roads.

13 Statement showing passenger traffic statistics as to number of passengers carried, per train mile, per passenger car mile, passenger train cars per train mile, revenue per mile, average receipt from each passenger, average receipt per passenger per mile, average revenue per train mile, average distance hauled, average passenger train service revenue per train mile, and other data for 1908 to 1914, both inclusive, on the same roads, (*a*) in Illinois, and (*b*) on their entire systems.

14 is a statement showing freight and passenger traffic combined for the same roads 1908 to 1914, inclusive, (*a*) for Illinois, (*b*) for their entire systems, and (*c*) for their entire systems excluding Illinois,—showing, among other things, passenger miles per mile of road, passengers per train mile, passengers per passenger car mile, revenue per passenger per mile in cents.

15 is a statement showing for the same roads and divided between Illinois and system in the same way, the labor cost and increase due to increase in the wage scales from 1908 to 1914.

16 is a diagram showing appropriation of each dollar of operating revenue paid to the railroads by the public for each of the years 1908 to 1914, both inclusive, on the same roads as to their lines in Illinois, and as to their entire systems.

17 is a statement showing operating revenue, labor, taxes, and other expenses, and balance available for interest, dividends and surplus on the same roads, for Illinois, for entire line, and for entire lines, excluding Illinois.

18 is a statement showing amounts paid for maintenance of way and structures, and for equipment per mile for 1908
297 to 1914, inclusive, for Illinois and for entire system, excluding Illinois.

19 is a statement showing maintenance expenses per car mile for 1908 to 1914, inclusive, divided like Exhibit 18.

20 and 21 are statements showing freight revenue, costs, and train-mile statistics for 1908 to 1914, inclusive, for the same roads in Illinois and for entire lines, as to gross operating revenue and total expenses, showing also net operating income, assessed value of roads and equipment, and per cent. of return on assessed value, together with the operating revenue and other data, showing, also, division of expense as between freight and passenger operations.

22 and 23 are statements showing passenger revenues, cost and train-mile statistics, 1908 to 1914, both inclusive, on the same roads for Illinois and for their entire systems, showing gross operating revenue from passenger traffic and total expenses chargeable to that traffic, the assessed value of roads and equipment, and per cent. of assessed value chargeable to passenger traffic, expenses per passenger train mile, passengers carried one mile, expenses per passenger per mile, and other data.

24 is a statement showing for the same roads the requirements in the next 7 years for refunding or refinancing maturing obligations now outstanding for the same roads.

25 is a statement showing additions and betterments—construction and equipment—acquired during the years 1908 to 1914, both inclusive.

26 is a statement showing division between freight and passenger service of operating revenues, expenses and income, value and net return, totals and per mile of road for the year ended June 30, 1914, the net operating income, the assessed valuation of road and equipment, and the assessor's value of road per mile.

26A is a statement showing as to 6,620 miles of road in Illinois for the year ended June 30, 1914, as the result of a special study for the segregating of results between freight and passenger operations, revenues, expenses,
298 taxes, income credits and income debits and value of road and equipment.

27 is the formula used for assigning operating expenses to states and for allocating such charges between freight and passenger traffic in Exhibit 26A.

Wettling Exhibit No.

28 consisting of 39 parts or subexhibits as follows:

1, 2 and 3 show for the following roads their total Illinois mileage severally and as a unit for years 1908 to 1914, both inclusive: Atchison, Topeka & Santa Fe Ry., Baltimore & Ohio Southwestern R. R., Chicago & Alton R. R., Chicago & Eastern Illinois R. R., Chicago & Illinois Midland Ry., Chicago & North Western Ry., Chicago, Burlington & Quincy R. R., Chicago Great Western R. R., Chicago, Milwaukee & Gary Ry., Chicago, Milwaukee & St. Paul Ry., Chicago, Rock Island & Pacific Ry., Chi-

cago, Terre Haute & Southeastern R. R., Cleveland, Cincinnati, Chicago & St. Louis Ry., Kankakee & Seneca R. R., Peoria & Eastern R. R., Illinois Central R. R., Illinois Southern R. R., Lake Erie & Western R. R., Minneapolis & St. Louis R. R., Minneapolis, St. Paul & Sault Ste Marie Ry., Mobile & Ohio R. R., St. Louis, Iron Mountain & Southern R. R., Southern Ry., Toledo, Peoria & Western Ry., Toledo, St. Louis & Western Ry., Vandalia R. R.

4 to 10 show operating revenue, expenses and net railway income of said 26 roads in Illinois for the years 1908 to 1914, both inclusive.

11 to 17 show the same information for their entire lines, including their lines in Illinois.

18 shows the aggregate of operating revenue, expenses and railway operating income, 1908-1914, for Illinois and entire lines.

19 shows assessors' value of road for Illinois, cost of road and equipment for entire line, average mileage operated net operating income and ratios, 1908-1914, inclusive for same roads, for Illinois and systems.

299 20 shows comparative increase, 1908-1914, inclusive, assessors' value of road for Illinois, cost of road and equipment for system, total operating revenue, expenses and income, for same roads, for Illinois and systems.

21 shows requirements in next seven years for refunding or refinancing maturing obligations now outstanding, for same roads, for Illinois and systems.

22 shows additions and betterments and equipment acquired, 1908-1914, inclusive, for same roads, for Illinois and systems.

23 shows labor cost and increase due to increase in wage scale, 1908-1914, inclusive, for same roads, for Illinois and systems.

24 shows increased costs for labor and taxes per mile of road and ratio to value, 1908-1914, inclusive, for same roads for Illinois and systems.

25 shows maintenance expenses, 1908-1914, inclusive, for same roads, for Illinois and systems.

26 shows ratio of maintenance of way and structures, maintenance of equipment and total maintenance to cost of road and equipment, 1908-1914, inclusive, for Illinois and systems.

27 shows maintenance expenses per car mile, 1908-1914, inclusive, for Illinois and systems.

28 shows freight traffic statistics, 1908-1914, inclusive, for Illinois and systems.

29 Passenger traffic statistics, 1908-1914, inclusive, for Illinois and systems.

30 shows freight and passenger traffic statistics, 1908-1914 inclusive, for Illinois and systems.

31 and 32 show freight revenues, costs and train-mile statistics, 1908-1914, inclusive, for Illinois and systems.

33 and 34 show passenger traffic costs and train-mile statistics, 1908-1914, inclusive, for Illinois and systems.

35 shows operating results, freight and passenger, for year ended June 30, 1914, for Illinois and entire lines.

300 36 shows division expenses between freight and passenger for year ended June 30, 1914, for Illinois and entire lines.

37 shows operating results, freight and passenger, per mile of road and train mile, year ended June 30, 1914, for Illinois and entire lines.

38 shows division between freight and passenger for the year ended June 30, 1914—roads, mileage, methods and adjustments.

39 shows operating revenues, labor, taxes and other expenses and balance available for interest, dividends and surplus, 1908-1914.

Authorities: Entire line statistics and calculations, based on annual report of carriers to Interstate Commerce Commission. Illinois statistics and calculations, based on annual report of carriers to State Public Utilities Commission of Illinois, division between freight and passenger. Special studies.

Wettling Exhibits Nos.

29 consisting of 7 pages as follows:

Page 1 shows average ratio of freight and passenger traffic units equated, for the years 1908 to 1914, on the same 26 roads, for their Illinois lines and for their entire lines.

Page 2 shows operating revenue, expenses and income for the fiscal year ended June 30, 1915, compared with 1914.

Page 3 compares operating revenues, expenses and income for July, 1915, with July, 1914, on the same lines.

Page 4 compares operating revenues, expenses, and income for August, 1915, with August, 1914.

Page 5 shows proportion of Illinois to entire line, average mileage operated, excluding trackage rights for Illinois roads in exhibit and average mileage operated, including trackage rights for Illinois roads not in exhibit.

301 Page 6 compares the results of operation for years 1908 to 1915 of a group of 9 roads in two 4-year periods each for system operations.

Page 7 shows revenues, expenses, and ratios, excluding hire of equipment, joint facility rents, etc., for the years 1908 to 1914, inclusive.

30 shows difference in kinds of locomotives in the service on 15 respondent roads in 1914 as compared with 1906.

31 shows the amount, number, cost, and weight of passenger train equipment used on 15 respondent roads, in 1914, as compared with 1906.

32 gives basic data for 23 of said roads as to their assessed value in Illinois for 1908 to 1914.

33 gives similar information for the same roads as to "net cost of road and equipment" for their entire lines from 1908 to 1914, inclusive.

Millard Exhibits Nos.

1 to 9 relate to a study of the cost of handling Illinois freight traffic, made by F. H. Millard, Civil Engineer.

Cherry Exhibits Nos.

1 is a Rand McNally map of Illinois, showing lines operating between St. Louis and Illinois points and the lines in Illinois.

2 Statement of reductions in state rates.

3 Copy of Illinois Commission's classification of freight, containing, also, the order for 3-cent passenger fares, which was suspended by 2-cent fare statute.

4 and 5 History of class rates between St. Louis and East St. Louis and points in Illinois.

6 Illinois distance tariff class rates from 1891 to 1915.

7 Illinois distance tariff commodity rates from 1891 to 1915.

8 Freight tariffs of various Illinois roads.

302 9 Class rates between Chicago, Peoria, Springfield and other Illinois points, and St. Louis and East St. Louis.

10 and 11 Comparisons of Illinois distance tariff rates of 1915, 1906, with other rate scales applied elsewhere, intrastate and interstate.

12 and 13 Statement of nature and volume of traffic handled on 27 roads between points in Illinois at class rates during ten days' test period.

14 is an analysis of said data in Exhibits 12 and 13.

15 is a statement in five parts comparing Illinois distance tariff rates for average ton hauls on the several classes, respectively.

16 is a statement of 11 pages comparing ratings in the Illinois classification with ratings in other classifications.

16A contains a similar comparison of the carload minimum weights provided by the several classifications.

17 shows routes, distances and distance tariff rates between Chicago and East St. Louis, and the average distance-longer routes meeting rates of short line.

18 to 22 results of operation of merchandise cars from Chicago, Peoria, St. Louis, East St. Louis and Cairo to points on Illinois Central in Illinois.

23 What amount of revenue the increase in state rates proposed would produce.

24 Excerpts from Commission's opinion in Five Per Cent. Case, 31 I. C. C., 351.

Cornick Exhibits Nos.

7 and 8 are statements comparing rates applied in the Louisville & Nashville R. R. with rates applied in Indiana; also, Illinois-Indiana interstate.

Stevenson Exhibits Nos.

1 and 2 Concerning rates on petroleum and its products.

Godfrey Exhibits Nos.

1 and 2 Concerning rates on brick and other clay products.

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Galligan Exhibit No.

1 is a map illustrating how longer lines meet competition of short line, and apply the distance tariff rates for the short-line distance between Chicago and East St. Louis and elsewhere.

Sudborough Exhibits Nos.

1 to 16 inclusive, relate to class and commodity freight rates on Vandalia Railroad (now Pittsburgh, Cincinnati, Chicago & St. Louis Railroad) between St. Louis, Mo., and points on said road in Illinois, between points in Illinois, and between points in Indiana and points in Illinois.

Behring Exhibits Nos.

1 to 5 inclusive, relate to class and commodity freight rates of Southern Railway between points involved in said case.

Webster Exhibits Nos.

1 is a map containing St. Louis-East St. Louis switching district and the Chicago switching district.

2 to 5 relate to rates on lumber.

Thompson Exhibit No.

1 is a blue print showing amounts expended by certain defendants for the elevation of their tracks over streets in and about the City of Chicago.

Interveners' Exhibits. (East Side M'f'g'rs Ass'n and Chicago Association of Commerce.)

Stith Ex.

1 is a statement of fixed charges guaranteed to the Terminal Railroad Association of St. Louis by so-called pro-

prietary lines using certain bridges and terminal facilities between St. Louis and the east side points.

2 is a statement concerning equivalents in mileage of the Eades and Merchants' bridges.

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Campbell Exhibits Nos.

1 is plat of St. Louis and vicinity published by Ter-inal Railroad Association of St. Louis and Wiggins' Ferry.

2 is a report of Municipal Bridge & Terminal Commission of St. Louis, 1905-1907, concerning the grouping of St. Louis and East St. Louis into one industrial community.

3 to 5 are excerpts from opinions of Interstate Commerce Commission in Terminal Allowance Case, 31 I. C. C., Illinois Coal Case, 32 I. C. C., 677, and Five Per Cent. Case, 31 I. C. C., 401.

6 and 7 are copies of Wettling Exhibits 9 and 65 in Western Advance Rate Case, 35 I. C. C., 321.

8 is a comparison of railway statistics, revenue and expenses, for Illinois, based on reports of the Railroad and Warehouse Commission of Illinois for the years 1904 to 1913, inclusive, with statistics compiled by Bureau of Railway Economics in its Bulletin No. 81.

9 is a comparison of freight and passenger statistics for roads in Illinois for years 1908 to 1913, both inclusive, per reports of Railroad and Warehouse Commission of Illinois.

10 is a compilation of freight and passenger statistics for Illinois, compiled from reports made by the steam roads in Illinois to the Railroad and Warehouse Commission of Illinois for the years 1908 to 1913, both inclusive.

11 is a statement of freight tonnage compiled from the same reports and for the same period.

Barlow Exhibits Nos.

A, A-1 and 1 are comparisons of Central Freight Association scale of rates with Illinois rates.

2 to 4 inclusive are similar comparisons.

5 and 5A compare rates from C. F. A. territory to west-bank Mississippi River points with rates from Chicago to points in Illinois.

305 6 compares lake and rail rates from Buffalo, N. Y., and other points to St. Louis with rates from Chicago.

7 is a telegram from the secretary of the Interstate Commerce Commission concerning lake-and-rail rates.

Exhibit Filed by State Public Utilities Commission of Illinois,

consisting of 21 pages bearing the following titles and relating to 23 steam roads in Illinois:

Pages	
1	Summary of operating results, freight and passenger, entire line, and Illinois.
2	as to Illinois.
3	as to entire lines.
4	Analysis of other revenues divided between freight and passenger, entire line, and Illinois.
5	Auxiliary revenues divided as between freight and passenger, entire line, and Illinois.
6	Allocation of common items of revenue between freight and passenger, entire line.
7	Allocation of common items of revenue between freight and passenger, Illinois.
8	Allocation of hire of equipment, etc., credit balance, between freight and passenger, entire line, and Illinois.
9	Allocation of hire of equipment, etc., debit balance, between freight and passenger, entire line, and Illinois.
10	Statistics of operating expenses, freight and passenger, entire line, and Illinois.
11	Statistics of operating revenues, freight, entire line, and Illinois.
12	Statistics of operating revenues, passenger, entire line, and Illinois.
13	Operating income account, entire line, and Illinois.
306 14	Net revenues from freight operations, entire line, and Illinois.
15	Net revenues from passenger operations, entire line, and Illinois.
16	Earnings on assessed value in State of Illinois.
17	Wage table, entire line, and Illinois.
18	Cost of road and equipment, entire line, and mileage statistics, entire line, and Illinois.
19	Comments on Wettling exhibits.
20	Statement of assessed and full values per mile of main track and rolling stock per foot of main track.
21	Financial statement, 23 roads, entire line.

[Endorsed:] Filed Feb. 8, 1917. T. C. MacMillan, Clerk.

307 And on the same day, to-wit: the third day of February, 1917, came the plaintiff in said entitled cause by its solicitors and filed in the clerk's office of said court, its certain Petition for O-der allowing Appeal. Said petition is in the words and figures following, to-wit:

308 *Petition for Order Allowing Appeal.*

In the District Court of the United States, Northern District of Illinois, Eastern Division.

In Equity. No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Defendants.

Petition for Order Allowing Appeal.

The above named plaintiff, Illinois Central Railroad Company, conceiving itself aggrieved by the decree entered on January 13, 1917, in the above entitled proceeding, dismissing the bill of the plaintiff for want of equity, does hereby appeal from said decree to the Supreme Court of the United States, and it prays that this, its appeal, may be allowed; and that a transcript of the record and proceedings and papers upon which said decree was made may be sent to the Supreme Court of the United States.

A. P. HUMBURG,
W. S. HORTON,
J. G. DRENNAN,
R. B. SCOTT,
CALHOUN, LYFORD & SHEEAN,
SILAS H. STRAWN,
V. W. FOSTER,
Solicitors for Plaintiff, Illinois Central Railroad Company.

[Endorsed:] Filed Feb. 3, 1917. T. C. MacMillan, Clerk.

309 And on the same day, to-wit: the third day of February, 1917, came the plaintiff in said entitled cause by its solicitors, and filed in the clerk's office of said court, its certain assignment of errors in words and figures following, to-wit:

310 *Assignment of Errors.*

In the District Court of the United States, Northern District of Illinois, Eastern Division.

In Equity. No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Defendants.

Assignments of Errors.

Now comes plaintiff and respectfully shows that the court in the proceedings and decree in the above entitled cause committed manifest error in each of the following respects:

1. The District Court erred in denying an injunction as prayed in plaintiff's bills and in dismissing said bills for want of equity.

2. The District Court erred in not granting an injunction as prayed in plaintiff's bills.

3. The District Court erred in hearing and determining the matters set up in the answers of the defendants, because it was without jurisdiction thereof.

4. The District Court erred in allowing the defendants to refile those parts of the answers of defendants which had been stricken out upon motion of plaintiff by the special court convoked under Section 266 of the Judicial Code, because such parts of said answers set up matters which said District Court was without jurisdiction to decide.

311 5. The District Court erred in admitting in evidence the record made before the Interstate Commerce Commission in the case of the Business Men's League of St. Louis against The Atchison, Topeka & Santa Fe Railway Company, and others, No. 8083, for the purpose of showing that the order of said Commission of October 17, 1916, was invalid.

6. The District Court erred in holding that the order of the Interstate Commerce Commission of October 17, 1916, was invalid.

7. The District Court erred in holding that the Interstate Commerce Commission was without power to make the said order of October 17, 1916.

8. The District Court erred in admitting the record made before the Interstate Commerce Commission in the case of the Business Men's League of St. Louis against The Atchison, Topeka & Santa Fe Railway Company, and others, No. 8083, over the objections of plaintiff, for the following reasons:

(*a*) The validity of said order of the Commission can only be questioned in a direct attack on said order under the Act of October 22, 1913.

(*b*) The District Court of the United States for the Northern

District of Illinois had no jurisdiction to determine whether or not the said order of the Commission was supported by the evidence, was without substantial evidence, or was contrary to the evidence or to the law, such jurisdiction being solely and exclusively in the United States District Court for the Eastern District of Missouri, in a proceeding in which three Judges are required to sit under the Act of October 22, 1913.

312 (*c*) Because a finding of fact by the Interstate Commerce Commission that discrimination exists is final and not reviewable.

(*d*) Because such record was offered for the purpose of making a collateral attack upon said order of the Commission.

(*e*) Because the defendants, who were parties to the case of The Business Men's League of St. Louis against The Atchison, Topeka & Santa Fe Railway Company, and others, No. 8083, have an adequate remedy at law under Section 16-*a* of the Act to Regulate Commerce to contest the order of the Commission, and persons not parties to said proceeding before the Interstate Commerce Commission, claiming to be aggrieved thereby, have a remedy at law under Section 13 of said Act.

(*f*) Because the defendant State Public Utilities Commission has an adequate remedy at law to contest said order of the Commission under Section 43 of the Act entitled, "An Act to Provide for the Regulation of Public Utilities", in force January 1, 1914, being Section 43 of Chapter 111-*a* of Hurd's Revised Statutes of Illinois, 1915-1916, which said Section 43 is as follows:

"The Commission shall have the power to investigate all existing or proposed interstate rates or other charges and classifications, and all rules and practices in relation thereto, of any public utility, where any act in relation thereto shall take place within this State; and when the same are, in the opinion of the Commission, excessive or discriminatory or in violation of the Act of Congress entitled 'An Act to Regulate Commerce', approved February fourth, eighteen hundred and eighty-seven, and the acts amendatory thereof and supplementary thereto, or of any other Acts of Congress, or in conflict with the rulings, orders or regulations of the Interstate Commerce Commission, the Commission may apply by petition or otherwise to the Interstate Commerce Commission or to any court of competent jurisdiction for relief."

313 9. The District Court erred in receiving and passing upon evidence offered to attack the validity of said order of the Interstate Commerce Commission in a collateral proceeding, because such action was in violation of the Act of Congress of October 22, 1913, requiring that such evidence be received, heard and passed upon in a direct proceeding in the district in which the complainant before the Interstate Commerce Commission resides, by a special court of three judges at least one of whom shall be a Circuit Judge, and a majority of whom must concur in the decision.

10. The District Court erred in refusing to admit the testimony of plaintiff's witness that the intrastate tariffs offered in evidence fixing a fare of 2.4 cents per mile were made for the purpose of conforming

to the requirement of the order of the Interstate Commerce Commission of October 17, 1916.

11. The District Court erred in sustaining the objection of the defendants to the following question asked of plaintiff's witness:

"Q. In what respect, if any, do these tariffs depart from those findings and that order?"

12. The District Court erred in sustaining the objection of the defendants to the following question asked of plaintiff's witness:

"Q. The interstate fares between St. Louis, Missouri, and Keokuk, Iowa, on the one hand, and points on the Illinois Central Railroad in Illinois on the other, having been put upon the basis of 2.4 cents per mile, was it in your opinion necessary to advance to a like basis the intrastate fares between stations on the Illinois Central Railroad in Illinois in order to comply with the provisions of the Interstate Commerce Commission's order of October 17, 1916?"

314 13. The District Court erred in overruling plaintiff's objections to the following questions asked of plaintiff's witness on cross examination, to which said witness made the following answers:

"Q. Do you know what the intrastate passenger fare in Missouri is?

"A. I understand the present fare is 2 cents per mile.

"Q. How long has that been the basis in Missouri for intrastate travel?

"A. I should say from 1908 to 1909.

"Q. In what other states are intrastate fares constructed on the 2 cents per mile as the maximum?

"A. In Indiana, Illinois, Iowa, South Dakota and Minnesota 2 cents as intrastate fares for intrastate travel. We charge 3 cents a mile in Wisconsin on intrastate travel, and that was so from 1903 and since my connection with the Illinois Central. We have no 2 cent fare state south of the Ohio river. All of our intrastate fares are 3 cents per mile south of the Ohio river."

14. The District Court erred in admitting in evidence over the objection of the plaintiff, defendant's Exhibit 6, being a document which purports to show the operating expenses and operating returns of various railroads for the fiscal years ending June 30, 1915-1916.

15. The District Court erred in not granting an injunction restraining the defendants, as prayed in said bill, during the pendency of this appeal.

Wherefore, the plaintiff prays that said decree be reversed.

CALHOUN, LYFORD & SHEEAN,
W. S. HORTON,
R. B. SCOTT,
V. W. FOSTER,
A. P. HUMBURG,
SILAS H. STRAWN,
J. G. DRENNAN,
Solicitors for Plaintiff, Illinois Central Railroad Company.

[Endorsed:] Filed Feb. 3, 1917. T. C. MacMillan, Clerk.

315 And on the same day to-wit: the third day of February, 1917, in the record of proceedings in said entitled cause before the Hon. Kenesaw M. Landis, District Judge, appears the following entry to-wit:

316 In the District Court of the United States, Northern District of Illinois, Eastern Division.

In Equity. No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Defendants.

Order Allowing Appeal.

This cause coming on for hearing this Feb'y 3, 1917, upon the application for an appeal by the plaintiff, together with its assignment of errors, an appeal is hereby allowed, and bond for appeal is hereby fixed in the sum of one thousand dollars ($1,000.00). And said plaintiff is hereby given 10 days in which to present and file its certificate of evidence herein.

KENESAW M. LANDIS, *Judge.*

317 And on the same day to-wit: the third day of February, 1917, in the record of proceedings in said entitled consolidated cause, appears before the Hon. Kenesaw M. Landis, District Judge, the following entry to-wit:

In the District Court of the United States, Northern District of Illinois, Eastern Division.

No. 753 and Cases No. 752, 754-777, 782, 786, 801.

ILLINOIS CENTRAL RAILROAD COMPANY

v.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

Consolidated Causes in Equity.

And now coming on to be heard the motion of the plaintiffs for an order granting an injunction as prayed in the Bill of Complaint, the Supplemental Bill of Complaint, and the Second Supplemental Bill of Complaint, pending the appeal herein, and the same arguments having been suggested to the Court in support of this motion

that were suggested by and on behalf of each plaintiff and all of the plaintiffs on the hearing of the application for a temporary injunction and the application for a permanent injunction at the final hearing, and the Court having heard the arguments of counsel and being fully advised in the premises, denies the said motion and declines to grant the order for an injunction pending the appeal.

To which action of the Court the plaintiffs then and there object and except.

318 In the District Court of the United States, Northern District of Illinois, Eastern Division.

In Equity. No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

Præcipe for Record.

To the Clerk of the above entitled Court:

You will please prepare transcript of the record in this cause to be filed in the office of the Clerk of the Supreme Court of the United States under the appeal heretofore allowed by the District Court of the United States for the Northern District of Illinois, Eastern Division, and include in the said transcript the following pleadings, proceedings and papers on file:

1. All pleadings, motions, material orders and decrees filed, entered or made in Case Docket No. 753 prior to the entry of the order of consolidation dated February 3, 1917.

2. Motion to strike out certain parts of answer of the defendants filed by plaintiff in case docket No. 777.

3. Opinion of three judge court on preliminary motions, a transcript of which opinion was filed by plaintiff on February 3, 1917.

319 4. Stipulation and order for consolidation filed and entered February 3, 1917.

5. Order made February 3, 1917, denying motion for injunction pending appeal.

6. Certificate of Evidence.

7. Petition for order allowing appeal, order allowing appeal, assignment of errors and appeal bond.

W. S. HORTON,
A. P. HUMBURG,
R. B. SCOTT,
SILAS H. STRAWN,
Solicitors for Plaintiff.

Received a copy of the foregoing præcipe for record this third day of February 1917.

EDWARD J. BRUNDAGE,
Attorney General,
J. H. WILKERSON,
Ass't Attorney General,
Solicitors for Defendants.

[Endorsed:] Filed Feb. 6, 1917. T. C. MacMillan, Clerk.

320 And on to-wit: the thirteenth day of February, 1917, came the Illinois Central Railroad Company, as principal and J. G. Drennan, as surety, and filed in the Clerk's office of said Court, in said entitled cause, a certain Appeal Bond, in the words and figures following to-wit:

321 *Appeal Bond.*

In the District Court of the United States for the Northern District of Illinois, Eastern Division.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, and WILLIAM L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw and Frank H. Funk, as Members of and Constituting the State Public Utilities Commission of Illinois; Edward J. Brundage, Attorney General of Illinois; Maclay Hoyne, State's Attorney of Cook County, Illinois, and Charles W. Hadley, State's Attorney of Du Page County, Illinois, and Charles L. Abbott, State's Attorney of Kane County, Illinois, and George S. Wiley, State's Attorney of La Salle County, Illinois, and Lowell B. Smith, State's Attorney of De Kalb County, Illinois, and Robert W. Martin, State's Attorney of Will County, Illinois, and Harry Edwards, State's Attorney of Lee County, Illinois, and William J. Emerson, State's Attorney of Ogle County, Illinois, and Patrick H. O'Donnell, State's Attorney of Boone County, Illinois, and William Johnson, State's Attorney of Winnebago County, Illinois, and Harry C. Tear, State's Attorney of Jo Daviess County, Illinois, Charles H. Green, State's Attorney of Stephenson County, Illinois, and C. E. McNemar, State's Attorney of Peoria County, Illinois, and John H. McFadden, State's Attorney of Livingston County, Illinois, and Henry E. Jacobs, State's Attorney of Marshall County, Illinois, and E. E. Black, State's Attorney of Tazewell County, Illinois, and Ernst J. Henderson, State's Attorney of Woodford County, Illinois, and Miles K. Young, State's Attorney of McLean County, Illinois, and James M. Bandy, State's Attorney of Madison County, Illinois, and J. Earl Major, State's Attorney of Montgomery County, Illinois, and Edmund P. Nischwitz, State's Attorney of Mason County, Illinois, and Harry B. Hershey, State's Attorney of Christian

County, Illinois, and Grover Cleveland Hoff, State's Attorney of De Witt County, Illinois, and C. E. Smith, State's Attorney of Logan County, Illinois, and Jesse L. Deck, State's Attorney of Macon County, Illinois, and C. F. Mortimer, State's Attorney of Sangamon County, Illinois, and Victor H. Hemphill, State's Attorney of Macoupin County, Illinois, and H. W. Shriner, State's Attorney of Clay County, Illinois, and Leslie L. Wilbourne, State's Attorney of Alexander County, Illinois, and S. N. Finn, State's Attorney of Marion County, Illinois, and Louis A. Busch, State's Attorney of Champaign County, Illinois, and Roy C. Martin, State's Attorney of Franklin County, Illinois, and R. R. Fowler, State's Attorney of Williamson County, Illinois, and A. R. Morgan, State's Attorney of Johnson County, Illinois, and Walter Roberts, State's Attorney of Massac County, Illinois, and Hubert E. Schaumleffel, State's Attorney of St. Clair County, Illinois,
22 Robert Hammond, State's Attorney of Coles County, Illinois, Joseph B. Crowley, State's Attorney of Crawford County, Illinois, Glenn Ratcliff, State's Attorney of Cumberland County, Illinois, S. S. Duhamel, State's Attorney of Douglas County, Illinois, Allen E. Walker, State's Attorney of Edwards County, Illinois, Byron Piper, State's Attorney of Effingham County, Illinois, W. P. Welker, State's Attorney of Fayette County, Illinois, F. M. Thompson, State's Attorney of Ford County, Illinois, James W. Kern, State's Attorney of Iroquois County, Illinois, Otis F. Glenn, State's Attorney of Jackson County, Illinois, W. E. Isley, State's Attorney of Jasper County, Illinois, Wayne H. Dyer, State's Attorney of Kankakee County, Illinois, C. R. Patterson, State's Attorney of Moultrie County, Illinois, S. A. Warden, State's Attorney of Perry County, Illinois, Charles W. Firke, State's Attorney of Piatt County, Illinois, John W. Browning, State's Attorney of Pope County, Illinois, C. S. Miller, State's Attorney of Pulaski County, Illinois, Alfred D. Reiss, State's Attorney of Randolph County, Illinois, S. C. Lewis, State's Attorney of Richland County, Illinois, James B. Lewis, State's Attorney of Saline County, Illinois, A. L. Yantis, State's Attorney of Shelby County, Illinois, James Lingle, State's Attorney of Union County, Illinois, John H. Lewman, State's Attorney of Vermilion County, Illinois, H. H. House, State's Attorney of Washington County, Illinois, Joe A. Pearce, State's Attorney of White County, Illinois, Defendants.

23 *Appeal Bond.*

Know All Men by These Presents, That Illinois Central Railroad Company, as principal, and John G. Drennan, as surety, are held and firmly bound unto the above named defendants in the full and just sum of One Thousand dollars ($1,000) to be paid to said defendants, their heirs, executors, administrators, or assigns, for which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, successors, and assigns, jointly and severally by these presents.

Witness the hands and seals of the parties hereto, this 2nd day of February, 1917.

The condition of the above obligation is such that, Whereas, the above named Illinois Central Railroad Company has prayed and has been allowed an appeal to the Supreme Court of the United States to reverse the decree entered in the above entitled cause by the District Court of the United States for the Northern District of Illinois, Eastern Division, on January 13, 1917.

Now, if the above named Illinois Central Railroad Company shall prosecute its said appeal to effect, and answer all damages and costs if it fail to make good its appeal, then the above obligation to be void, otherwise to remain in full force and virtue.

[SEAL.] ILLINOIS CENTRAL RAILROAD COMPANY,
By FRANK B. BOWES, [SEAL.]
Vice President.
JOHN G. DRENNAN, [SEAL.]
Surety.

Attest:

BURT A. BECK,
Assistant Secretary.

STATE OF ILLINOIS,
County of Cook, ss:

John G. Drennan on oath says that he is the same person who signed the above bond as surety; that he owns unencumbered real estate in the Counties of Christian and Cook in the State of Illinois of the value of more than $50,000; and that he is worth more than $50,000 over and above any debts or liabilities.

[SEAL.] JOHN G. DRENNAN.

Subscribed and sworn to before me this 2nd day of February, A. D. 1917.

[SEAL.] M. J. O'CONNELL,
Notary Public.

App'v'd.
K. M. L.

O. K.
J. H. WILKERSON,
Solicitor for Defendants.

[Endorsed:] Filed Feb. 13, 1917. T. C. MacMillan, Clerk.

324 And on to-wit: the eighth day of February, 1917, came the United States of America, by Blackburn Esterline, Special Assistant to the Attorney General, and filed in the clerk's office of said Court in said entitled cause, its certain petition for cross-appeal, and Assignment of Errors on cross-appeal. Said Petition and

Assignment of Errors on cross-appeal, are respectively in the words and figures following, to-wit:

325 In the United States District Court, Northern District of Illinois, Eastern Division.

Illinois Passenger Fare Cases. Consolidated.

In Equity. No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff,

v.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Defendant.

and twenty-eight (28) other cases, numbered respectively on the docket of this court as

752	754	755	756	757	758
759	760	761	762	763	764
765	766	767	768	769	770
771	772	773	774	775	776
777	782	786	801		

all consolidated by order of court January 6, 1917.

Petition of United States for Cross Appeal.

326 United States of America, defendant to the petition and supplemental petitions of the plaintiff, and defendant to the answer and cross-bill of counter-claim of State Public Utilities Commission of Illinois et al., feeling itself aggrieved by paragraphs 4 and 5 of the order or decree of the District Court in the above numbered causes (consolidated), entered January 6th, 1917, viz:

4. The motions to strike out other specified portions of said answer, and the motion to strike out said answer as a whole, are denied.

5. The motion or request of the United States of America to dismiss the bills of complaint and supplemental bills for want of proper venue, is denied, and thereupon the United States elected to stand on its special appearance and to plead no further, but said bills and supplemental bills as to the United States of America and the Interstate Commerce Commission are dismissed for want of jurisdiction.

now comes by its counsel, and prays a cross appeal to the Supreme Court of the United States therefrom.

The particulars wherein it considers paragraphs 4 and 5 erroneous are set forth in the assignment of errors on file, to which reference is made.

Defendant prays that a transcript of the record, proceedings, and papers on which paragraphs 4 and 5 were made and entered, duly authenticated, may be transmitted forthwith to the Supreme Court of the United States.

BLACKBURN ESTERLINE,
Special Assistant to the Attorney General.

[Endorsed:] Filed Feb. 8, 1917. T. C. MacMillan, Clerk.

327 In the United States District Court, Northern District of Illinois, Eastern Division.

Illinois Passenger Fare Cases. Consolidated.

In Equity. No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff,

v.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Defendant.

and twenty-eight (28) other cases, numbered respectively on the docket of this court as

752	754	755	756	757	758
759	760	761	762	763	764
765	766	767	768	769	770
771	772	773	774	775	776
777	782	786	801		

all consolidated by order of court January 6, 1917.

Assignment of Errors on Cross Appeal.

328 United States of America, defendant to the petition and supplemental petitions of the plaintiff, and defendant to the answer and cross bill or counter-claim of State Public Utilities Commission of Illinois et al., in the above numbered causes (consolidated) by its counsel, now comes, and, in connection with its petition for cross appeal, files the following assignment of errors on which it will rely on the cross appeal to the Supreme Court of the United States from paragraphs 4 and 5 of the order or decree of the District Court entered January 6, 1917.

The District Court erred:

I. In overruling, and in not sustaining, the motion (made on special appearance and answer) to dismiss the bill of complaint and supplemental bills of the plaintiff and the answer and cross bill or counter-claim of State Public Utilities Commission of Illinois et al., in

their entirety, for lack of proper venue to maintain the same in the Northern District of Illinois.

II. In overruling, and in not sustaining, the motion (made on special appearance and answer) to dismiss the answer and cross bill or counter-claim of State Public Utilities Commission of Illinois, et al., in its entirety, for lack of proper venue to maintain the same in the Northern District of Illinois.

329 III. In overruling, and in not sustaining, the motion (made on special appearance and answer) to dismiss the bill of complaint and the supplemental bills of the plaintiff for lack of proper venue to maintain the same in the Northern District of Illinois.

IV. In entering paragraphs 4 and 5, or any part of the same, of the order or decree of January 6, 1917.

IV. In taking jurisdiction over the cause, or any part of the same, and proceedings to a hearing and adjudication of the merits thereof, after the motion was made (on special appearance and answer) to dismiss the cause in its entirety for lack of proper venue to maintain the same in the Northern District of Illinois.

VI. In not dismissing the bill of complaint and the supplemental bills sua sponte, after holding that the suit was not one to enforce an order of the Interstate Commerce Commission, for that there was then no federal question upon which to maintain the bill of complaint and the supplemental bills in the United States District Court for the Northern District of Illinois, and there was likewise no proper allegation of diversity of citizenship of the parties.

330 Wherefore, United States of America prays that paragraphs 4 and 5 of the order or decree of January 6, 1917, be reversed, with directions that the bill of complaint and the supplemental bills and the answer or cross bill or counter-claim of State Public Utilities Commission of Illinois et al. be dismissed in their entirety, and for such other and further order as may be appropriate.

BLACKBURN ESTERLINE,
Special Assistant to the Attorney General.

[Endorsed:] Filed Feb. 8, 1917. T. C. MacMillan, Clerk.

331 In the United States District Court, Northern District of Illinois, Eastern Division.

Illinois Passenger Fare Cases. Consolidated.

In Equity. No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff,

v.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Defendant.

And twenty-eight (28) other cases, numbered, respectively, on the docket of this court as

752	754	755	756	757	758
759	760	761	762	763	764
765	766	767	768	769	770
771	772	773	774	775	776
777	782	786	801		

all consolidated by order of court January 6, 1917.

332 *Order Allowing Cross Appeal.*

United States of America, respondent, having, in the above numbered causes (consolidated), made and filed its petition praying a cross appeal to the Supreme Court of the United States from the order or decree of the District Court entered January 6, 1917, and having also made and filed an assignment of errors, and having in all respects conformed to the statutes and rules of court in such case made and provided:

It is ordered and decreed, that the said cross appeal be, and the same is hereby, allowed as prayed and made returnable within thirty days from the date hereof; and the clerk is directed to transmit forthwith a properly authenticated transcript of the record, proceedings and papers, on which said order or decree was made and entered to the Supreme Court of the United States.

EVAN A. EVANS,
Circuit Judge.
KENESAW M. LANDIS,
District Judge.

333 *Præcipe for Record on Cross Appeal.*

In the United States District Court, Northern District of Illinois, Eastern Division.

Illinois Passenger Fare Cases. Consolidated.

In Equity. No. 753.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Defendant.

And twenty-eight (28) other cases, numbered, respectively, on the docket of this court as

752	754	755	756	757	758
759	760	761	762	763	764
765	766	767	768	769	770
771	772	773	774	775	776
777	782	786	801		

all consolidated by order of court January 6, 1917.

Præcipe for Record for Cross Appeal.

To the Clerk:

334 You will please prepare and certify a transcript of the record of the proceedings in the above numbered causes (consolidated) to be filed in the office of the Clerk of the Supreme Court of the United States, on the cross appeal of the United States from paragraphs 4 and 5 of the order or decree entered January 6, 1917, and include therein the following pleadings, proceedings, papers and orders on file or of record, to-wit:

1. No. 753; bill of complaint; supplemental bill, and second supplemental bill.
2. No. 753; order directing that United States shall be made a party, and order that chancery subpœna issue to the Attorney General of the United States.
3. No. 753; answer and cross bill or counter-claim of State Public Utilities Commission of Illinois, et al.
4. No. 753; chancery subpœna with return of service on the Attorney General of the United States thereon.
5. No. 753; reply of plaintiff.
6. No. 753; special appearance and answer of the United States.
7. Opinions of the Judges on entering order of January 6, 1917.

8. Order of January 6, 1917, containing paragraphs 4 and 5.

335 9. All other orders, journal entries and other memoranda relating to the proceedings in said cause, to and including entry of order of January 6, 1917.

10. Petition for cross appeal, assignment of errors on cross appeal, and order allowing cross appeal.

11. Præcipe for record.

BLACKBURN ESTERLINE,
Special Assistant to the Attorney General.

Service of a copy of the within præcipe is hereby admitted this eighth day of February A. D. 1917.

A. P. HUMBURG,
W. S. HORTON,
J. G. DRENNAN,
R. B. SCOTT,
CALHOUN, LYFORD & SHEEAN,
SILAS H. STRAWN, AND
V. W. FOSTER,
Solicitors for Illinois Central Railroad Company.

(Endorsed:) Filed Feb. 8, 1917. T. C. MacMillan, Clerk.

336 And on the same day, to-wit: the eighth day of February, 1917, in the record of proceedings in said entitled cause, before the Hon. Evan A. Evans, Circuit Judge, and Hon. Kenesaw M. Landis, District Judge, appears the following entry, to-wit:

337 And on to-wit: the thirteenth day of February, 1917, there was filed in the clerk's office of said court, in said entitled cause a certain Stipulation in words and figures following, to-wit:

Stipulation.

No. 753.

ILLINOIS CENTRAL R. R. CO.

VS.

STATE PUBLIC UTILITIES COM. OF ILLINOIS et al.

It is hereby stipulated that the clerk in preparing the record for the Supreme Court, shall transmit, as a part of said record, a certified copy of the bill and supplemental bills in each of the consolidated causes as Volume 2 of this record and shall certify the same to be a part of the record in said causes on appeal, and the same shall be considered as a part of the record on appeal; and all the pleadings

in the Chicago & Northwestern Railway case No. 801 shall be transmitted.

W. S. HORTON,
A. P. HUMBURG,
J. G. DRENNAN,
R. B. SCOTT,
SILAS H. STRAWN,
Solicitors for Plaintiffs.
J. H. WILKERSON,
Solicitor for Defendants.

[Endorsed:] Filed Feb. 13, 1917. T. C. MacMillan, Clerk.

338 UNITED STATES OF AMERICA,
Northern District of Illinois,
Eastern Division, ss:

I, T. C. MacMillan, Clerk of the District Court of the United States for the Northern District of Illinois, do hereby certify the above and foregoing, contained in Volume 1 and Volume 2, to be a true and complete transcript of the proceedings had of record in said Court, made in accordance with Præcipes and Stipulation filed in the consolidated causes, entitled Illinois Central Railroad Company vs. State Public Utilities Commission of Illinois et al., No. 753 and cases number 752, 754-777, 782, 786, 801, as the same appear from the original records and files thereof, now remaining in my custody and control.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, at my office, in the City of Chicago, in said District, this seventeenth day of February, 1917.

[Seal of Dist. Court, U. S., Northern Dist. Illinois, 1855.]

T. C. MACMILLAN, *Clerk.*

339 *Citation on Appeal.*

UNITED STATES OF AMERICA, *ss:*

To State Public Utilities Commission of Illinois, Edward J. Brundage, Attorney General of Illinois, et al. Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date hereof, pursuant to an appeal duly allowed and filed in the Clerk's office of the United States District Court, Northern District of Illinois, Eastern Division, wherein the Illinois Central Railroad Company is appellant, and State Public Utilities Commission of Illinois et al., are appellees, to show cause, if any there be, why the decree entered January the thirteenth, 1917, in the said appeal mentioned, should not be reversed, and why speedy justice should not be done to the parties in that behalf.

Witness Kenesaw M. Landis, United States District Judge, this 13th day of February, A. D. 1917.

KENESAW M. LANDIS,
District Judge.

Service of a copy of the within citation is hereby admitted this 13th day of February, A. D. 1917.

EDWARD J. BRUNDAGE,
Attorney General;
JAMES H. WILKERSON,
Solicitors for State Public Utilities Commission of Illinois et al., Defendants.

339*a* No. —

In the Supreme Court of the United States.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION et al.

Supplemental Record on Cross Appeal of State Public Utilities Commission et al.

EDWARD J. BRUNDAGE,
Attorney General;
JAMES H. WILKERSON,
Solicitors for Cross-Appellant.

339*b* Pleas in the District Court of the United States for the Northern District of Illinois, Eastern Division, in Chancery sitting, at the United States Court room, in the City of Chicago, in said District and Division, before the Honorable Evan A. Evans, Judge of the United States Circuit Court of Appeals, for the Seventh Judicial Circuit, sitting by designation, and the Honorable George A. Carpenter, District Judge of the United States for the Northern District of Illinois, on Saturday, the sixth day of January, 1917, being one of the days of the December Term of said Court, begun Monday, the eighteenth day thereof, in the year of our Lord one thousand nine hundred and sixteen, and of the Independence of the United States of America, the one hundred and forty-first year.

Present: Honorable Evan A. Evans, Circuit Judge, and Honorable George A. Carpenter, District Judge, presiding. John J. Bradley, United States Marshal for said District, and T. C. MacMillan, Clerk of said Court.

339c In the District Court of the United States for the Northern District of Illinois, Eastern Division.

No. 753

And Cases Number 752, 754-777, 782, 786, 801.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

Consolidated Causes.

Be it remembered, That heretofore, to-wit: on the thirteenth day of February, 1917, came the defendants in the above entitled consolidated causes (other than the United States of America and the Interstate Commerce Commission) by Edward J. Brundage, Attorney General of the State of Illinois, and James H. Wilkerson, Assistant Attorney General of the State of Illinois, and filed in the clerk's office of said Court their certain Statement of Evidence, in words and figures following towit:

339d *Statement of Evidence.*

In the District Court of the United States, Northern District of Illinois, Eastern Division.

In Equity.

Number 753, and Cases Number 752, 754-777, 782, 801.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

Consolidated Causes.

Statement of Evidence.

Be it remembered, That at the hearing upon the pleas of the United States of America to the jurisdiction of the Court in the above entitled cases, and the motions to dismiss the bills and cross-bills for want of jurisdiction, commencing on January 3rd, 1917, and ending on January 6th, 1917, the counsel for the said United States of America offered in evidence the complaint filed by the Business Men's League of St. Louis before the Interstate Commerce Commis-

sion, in the proceeding before said Commission, designated
339e Docket Number 8083. The defendants, other than the United States of America and the Interstate Commerce Commission, thereupon offered in evidence all of the remaining papers, orders and proceedings filed and entered in said case Number 8083, before the Interstate Commerce Commission, and submitted for consideration, that an examination of said proceedings before the Commission shows that the ultimate order of the Commission in the proceedings was not made upon the petition of said Business Men's League of St. Louis, but was made upon the motion of the Commission itself, and involved a ruling upon a large number of matters entirely without the scope of the petition of said Business Men's League of St. Louis.

All of the documents so offered in evidence by said United States of America and by said other defendants are shown and set forth in a Document marked Defendants' Exhibit 5, and now on file in this Court as an exhibit to the Statement of Evidence filed by the plaintiffs herein.

Said Documents so marked Defendants' Exhibit 5, are hereby made a part of this Statement of Evidence with the same effect as if set forth herein at large and the clerk of this Court in preparing the record upon appeal from the orders of January 6th, 1917, shall incorporate in said record, as a part of this Statement of Evidence, said Defendants' Exhibit 5 on file herein and attached to the plaintiffs' Certificate of Evidence.

339f And on to-wit: the seventh day of February, 1917, came the defendants in said entitled cconsolidated cause (other than the United States and the Interstate Commerce Commission) by their solicitors, Edward J. Brundage, Attorney General of the State of Illinois, and James H. Wilkerson, Assistant Attorney General, and filed in the Clerk's office of said Court their certain Petition for Appeal and Assignment of Errors in words and figures following to-wit:

339*g* *Petition for Appeal.*

In the District Court of the United States, Northern District of Illinois, Eastern Division.

In Equity.

No. 753, and Cases Number 752, 754-777, 782, 786, 801.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION et al.

Consolidated Causes.

Petition for Appeal.

To the Judges of said District Court:

Now come all of the defendants in each of the above entitled causes, except the United States of America and the Interstate Commerce Commission, and petition the court for an order allowing them to prosecute an appeal from the order and decree of January 6, 1917, striking out and dismissing the cross bills or counter claims of the said defendants and dismissing the bills and supplemental
339*h* bills in said causes as to the United States of America for want of jurisdiction, as amended on February 2, 1917, by dismissing the bill and supplemental bills as to the Interstate Commerce Commission, to the Supreme Court of the United States, for the reasons set forth in the assignment of errors filed herewith.

Said defendants pray that their petition for appeal may be allowed; that the court may make an appropriate order as to bond, and that a transcript of the record, proceedings and papers upon which the said order and decree was made may be sent to the Supreme Court of the United States in accordance with law.

EDWARD J. BRUNDAGE,
Attorney General of the State of Illinois;
JAMES H. WILKERSON,
Assistant Attorney General,
Solicitors for Said Defendants.

[Endorsed:] Filed Feb. 7, 1917. T. C. MacMillan, Clerk.

339*i* *Assignment of Errors.*

In the District Court of the United States, Northern District of Illinois, Eastern Division.

In Equity.

No. 753, and Cases Number 752, 754-777, 782, 786, 801.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION et al.

Consolidated Cases.

Assignment of Errors by Defendants, Other than the United States of America and the Interstate Commerce Commission, upon Appeal from the Order and Decree of January 6, 1917, as Amended on February 2, 1917.

The defendants in each of the above entitled causes, except the United States of America and the Interstate Commerce Commission, the appellants herein, hereby assign error to the order and decree made and entered in each of said causes on January 6, 1917, striking out and dismissing the cross bills or counter claims of said defendants, and dismissing the bills and supplemental bills in said causes as to the United States of America, as amended, on February 2,
339*j* 1917, by dismissing the bills and supplemental bills as to the Interstate Commerce Commission, as follows:

1. The court erred in striking from the answer in each of said causes the following:

"That this answer be taken as the cross-bill or counter-claim of these defendants against the said plaintiff and the United States of America and the Interstate Commerce Commission, and that they be required, within the time fixed by law and the rules and practice of this court, to answer the same, but not under oath, answer under oath being waived.

The defendants further pray that the said order of the Interstate Commerce Commission entered on October 17, 1916 (except in so far as it vacates the previous order of July 12, 1916), be set aside and annulled, and that, pending the final determination of this cause, the said orders be suspended; that upon the final hearing hereof, the parties hereto, other than these answering defendants, may be permanently enjoined and restrained from complying with, enforcing or attempting to enforce the provisions of said orders; and that these defendants may have such other and further relief in the premises as to the court shall seem meet."

339*k* 2. The court erred in dismissing said cross-bill or counter claim of said defendants in each of said cases.

3. The court erred in dismissing the bills of complaint and supplemental bills of complaint as to the United States of America, for want of jurisdiction.

4. The court erred in striking out and dismissing said cross-bills of said defendants as to the United States of America.

5. The court erred in striking out and dismissing the cross-bills of said defendants as to the Interstate Commerce Commission.

6. The court erred in permitting the order of January 6, 1917, to be amended, without notice, by dismissing the bills and supplemental bills as to the Interstate Commerce Commission after the case had been tried and decrees entered with the Interstate Commerce Commission a party to the record.

7. The record erred in dismissing said bills of complaint and supplemental bills of complaint as to the Interstate Commerce Commission.

EDWARD J. BRUNDAGE,
Attorney General of the State of Illinois.
JAMES H. WILKERSON,
Assistant Attorney General,
Solicitors for Said Defendants.

[Endorsed:] Filed Feb. 7, 1917. T. C. MacMillan, Clerk.

339*l* And on to-wit: the twenty-fourth day of February, 1917, in the record of proceedings in said entitled cause before the Hon. Evan A. Evans, Circuit Judge, and Hon. Kenesaw M. Landis, District Judge, appears the following entry to-wit:

In Equity.

No. 753, and Cases Number 752, 754-777, 782, 786, 801.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

Consolidated Cases.

The petition of the defendants, other than the United States of America and the Interstate Commerce Commission, in each of the above entitled causes for an order allowing an appeal from the order and decree entered herein on January 6, 1917, as amended on February 2, 1917, with assignment of errors, coming on to be heard, the court certifies that said cross-bills or counter claims of said defendants, and said bills and supplemental bills, were dismissed as to the United States of America and the Interstate Commerce Commission upon the sold ground that the court was without jurisdic-
339*m* tion.

And it is ordered, that the above entitled causes having

been heretofore consolidated for the purposes of the order of January 6, 1917, be and the same are hereby consolidated for the purposes of this appeal, and that the proceedings in said causes on this appeal shall be carried on in the same manner as provided for consolidating such causes for the purpose of the appeals of the complainants herein, as stated in an order entered herein on February 3, 1917.

It is further ordered said defendants give one bond for costs of this appeal, which shall be executed by the Attorney General of the State of Illinois, with sureties satisfactory to the court, and that said appeal by said defendants from said order of January 6, 1917, be allowed upon filing an appeal bond as above provided in the sum of one thousand ($1,000.00) dollars, surety to be approved by a Judge of the District Court.

EVAN A. EVANS.
KENESAW M. LANDIS.

Entered. Feb. 24, 1917.

339*n* And on the same day to-wit: the twenty-fourth day of February, 1917, in the record of proceedings in said entitled cause, before the Hon. Kenesaw M. Landis, District Judge, appears the following entry, to-wit:

In Equity.

No. 753, and Cases Number 752, 754-777, 782, 786, 801.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

Consolidated Cases.

This day come the defendants in the above entitled causes and tender their bond on appeal to the Supreme Court of the United States from the order and decree entered on January 6th, 1917, as amended on February 2nd, 1917, dismissing the cross-bills or counter-claims of said defendants, and the bills and supplemental bills herein as to the United States of America and the Interstate Commerce Commission, in accordance with the order allowing the appeal heretofore made herein.

Whereupon, it is ordered that said appeal bond be and the same is hereby approved and filed herein forthwith. It is further ordered that Citation issue and that the Transcript of the record upon such appeal be transmitted to the United States Supreme Court in accordance with Law and the Rules of Equity.

Enter: KENESAW M. LANDIS.

Feb. 24, 1917.

339o And on to-wit: the twenty-fourth day of February, 1917, there was filed in the clerk's office of said Court in said entitled cause, a certain Appeal Bond, in words and figures following, to-wit:

Bond.

Know All Men by These Presents, That we, Edward J. Brundage, Attorney General of the State of Illinois, as principal, and National Surety Company, as surety, are held and firmly bound unto the United States of America and the Interstate Commerce Commission in the full and just sum of one thousand ($1,000.00) dollars, to be paid to the said United States of America and the Interstate Commerce Commission, their certain attorneys or assigns; to which payment well and truly to be made we bind ourselves and our successors jointly and severally by these Presents.

Sealed with our Seals and dated this 24th day of February, in the year of our Lord one thousand nine hundred and seventeen.

Whereas, lately at the December Term of the United States District Court in and for the Northern District of Illinois, and the Eastern Division thereof, in certain suits depending in said court,

339p to-wit, Equity Causes 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 782, 786, and 801, which said causes by order of said Court have been consolidated for the purposes of appeal to the Supreme Court of the United States under the title "Illinois Central Railroad Company vs. State Public Utilities Commission et al., the same being Equity Case Number 753 on the docket of said court, a decree was rendered against the Attorney General of the State of Illinois, together with other defendants in said causes, striking out and dismissing a certain cross-bill or counter claim as to the said United States of America and the said Interstate Commerce Commission, and

Whereas, it has been ordered by said United States District Court that, upon the appeal from said decree, the appeal bond may be given by the said Edward J. Brundage, Attorney General of the State of Illinois, on behalf of all of the defendants in each of said causes, and the said Edward J. Brundage, Attorney General of the State of Illinois, together with all of the defendants in each of said causes, having obtained an appeal and filed a copy thereof in the clerk's offive of said court to reverse said decree in each of said

339q above named causes, striking out or dismissing said cross-bill or counter claim and a citation directed to the said United States of America and the Interstate Commerce Commission, citing and admonishing them to be and appear at a Supreme Court of the United States, to be holden at Washington, within thirty (30) days from the date thereof.

Now, the condition of the above obligation is such, That if the said Edward J. Brundage, Attorney General of the State of Illinois, and said other defendants, in each of said above named causes, shall prosecute their appeal to effect, and answer all damages and costs

if they fail to make their plea good, then the above obligation to be void, else to remain in full force and virtue.

EDWARD J. BRUNDAGE, [SEAL.]
Attorney General of the State of Illinois.
NATIONAL SURETY COMPANY,
W. HERBERT STEWART,
Resident Vice President.
ANTON A. BLAZERSCH,
Resident Ass't Secretary.

[SEAL.]

Approved by
KENESAW M. LANDIS.

[Endorsed:] Filed Feb. 24, 1917. T. C. MacMillan, Clerk.

339r NORTHERN DISTRICT OF ILLINOIS,
Eastern Division, ss:

I, T. C. MacMillan, Clerk of the District Court of the United States for the Northern District of Illinois, do hereby certify the above and foregoing to be true and complete copies of the Statement of Evidence, filed in said Court on the thirteenth day of February, 1917, Petition for Appeal and Assignment of Errors, filed February Seventh, 1917, Order allowing Appeal entered of record on the twenty-fourth day of February, 1917, Order entered of record on the twenty-fourth day of February, 1917, approving Bond, Bond on Appeal, filed February twenty-fourth, 1917, in the cause entitled, Illinois Central Railroad Company vs. State Public Utilities Commission of Illinois et al., No. 753 and Cases Number 752, 754-777, 782, 786, 801, as the same appear from the original records and files thereof, now remaining in my custody and control.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, at my office, in the City of Chicago, in said District, this sixth day of March, 1917.

[Seal of Dist. Court U. S., Northern Dist. of Illinois, 1855.]

T. C. MACMILLAN, *Clerk.*

339s In the District Court of the United States, Northern District of Illinois, Eastern Division.

Consolidated Causes. In Equity.

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION et al., No. 753, and Cases Number 752, 754-777, 782, 786, 801.

Præcipe for Record.

To the Clerk of the Above Entitled Court:

You will please prepare transcript of the record in this cause, to be filed in the office of the Clerk of the Supreme Court of the United States, under the appeal heretofore allowed by the District Court of the United States for the Northern District of Illinois, Eastern Division, from the order and decree of January 6, 1917, and include in the said transcript the following pleadings, proceedings and papers on file:

1. All pleadings, motions, material orders and decrees filed, entered or made in Case Docket Number 753, prior to the order and decree of January 6, 1917.
2. The order and decree of January 6, 1917.
3. The opinion of Judges Evans, Landis and Carpenter, filed herein on February 3, 1917.
4. The stipulation and order for consolidation filed and entered February 3. 1917.

339t 5. The certificate of evidence of the defendants filed herein relative to said motion and decree of January 6, 1917.

6. Petition of defendants for order, allowing appeal, order allowing appeal, assignment of errors and appeal bond.

EDWARD J. BRUNDAGE,
Attorney General.
JAMES H. WILKERSON,
Assistant Attorney General.

Received a copy of the foregoing præcipe for record this 24th day of February, 1917.

BLACKBURN ESTERLINE,
Special Assistant to the Attorney General,
For Defendant United States.
JOS. W. FOLK,
Counsel for Interstate Commerce Commission.

JOHN BARTON PAYNE,
K. B. SCOTT,
W. S. HORTON,
A. P. HUMBURG,
Solicitors for Appellants.

339u *Citation.*

UNITED STATES OF AMERICA, *ss.*

To United States of America, Interstate Commerce Commission, Illinois Central Railroad Company, et al., Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within thirty (30) days from the date hereof, pursuant to a cross-appeal, duly allowed and filed in the Clerk's office of the United States District Court, Northern District of Illinois, wherein Illinois Central Railroad Company is appellant, and State Public Utilities Commission of Illinois et al., are appellees, and State Public Utilities Commission of Illinois et al. are cross-appellants, to show cause, if any there be, why the order and decree entered on January 6, 1917, as amended on February 2, 1917, dismissing the cross-bills or counter-claims of said cross-appellants and the bills and supplemental bills of said Illinois Central Railroad Company, et al., as to the United States of America and the Interstate Commerce Commission should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Evan A. Evans, United States Circuit Judge, the Honorable Kenesaw M. Landis, United States
339v District Judge, and the Honorable George A. Carpenter, United States District Judge, this 24th day of February, A. D. 1917.

KENESAW M. LANDIS,
District Judge.

Service of the within citation is accepted this 28th day of February, A., 1917.

BLACKBURN ESTERLINE,
Special Assistant to the Attorney General, for Defendant United States.
JOS. W. FOLK,
Counsel for Interstate Commerce Commission.

JOHN BURTON PAYNE,
R. B. SCOTT,
W. S. HORTON,
A. P. HUMBURG,
Solicitors for Appellants.

339w *Citation.*

No. 753.

Illinois Passenger Fare Cases. Consolidated.

Citation on Cross Appeal of United States.

Filed Feb. 8, 1917. T. C. MacMillan, Clerk.

Satterlee & Binns, Shorthand Reporters, 1101 Ashland Block, Chicago, Ill. Telephone Central 5645.

339x *Citation on Cross Appeal.*

UNITED STATES OF AMERICA, *ss.*

To Illinois Central Railroad Company, and State Public Utilities Commission of Illinois, et al., Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within thirty (30) days from the date hereof, pursuant to a cross appeal duly allowed and filed in the Clerk's Office of the United States District Court, Northern District of Illinois, wherein Illinois Central Railroad Company is appellant and State Public Utilities Commission of Illinois et al. are appellees, and United States of America is cross appellant, to show cause, if any there be, why paragraphs 4 and 5 of the order or decree entered January 6, 1917, in the said cross appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Evan A. Evans, United States Circuit Judge, the Honorable Kenesaw M. Landis, United States District Judge, and the Honorable George A. Carpenter, United States District Judge, this eighth day of February, A. D., 1917.

339y EVAN A. EVANS,
Circuit Judge.
KENESAW M. LANDIS,
District Judge.

Service of a copy of the within citation is hereby admitted this eighth day of February, A. D., 1917.

A. P. HUMBURG,
W. S. HORTON,
J. G. DRENNAN,
R. B. SCOTT,
CALHOUN, LYFORD & SHEEAN,
SILAS H. STRAWN AND
V. W. FOSTER,
Solicitors for Illinois Central Railroad Company.
EDWARD J. BRUNDAGE,
Attorney General.
JAMES H. WILKERSON,
Solicitors for State Public Utilities Commission of Illinois et al.

Service of Præcipe for record also admitted.

EDWARD J. BRUNDAGE,
Attorney General.
J. H. WILKERSON.

The foregoing was all of the evidence offered or received in said cases upon the hearing of said pleas of the United States of America to the jurisdiction of the court, and its said motions to dismiss.

And forasmuch as the matters above set forth do not fully appear of record in said above entitled causes, defendants in said causes, other than the United States of America and the Interstate Commerce Commission, tender this Statement of Evidence and pray that the same may be certified under the hand and seal of the Judges of said Court, and thereby made a part of the record in said causes, and it is certified accordingly this 7th day of February, A. D. 1917.

EVAN A. EVANS, [SEAL.]
KENESAW M. LANDIS, [SEAL.]
Judges.

[Endorsed:] Filed Feb. 13, 1917. T. C. MacMillan, Clerk.

340 & 341 In the District Court of the United States, Northern District of Illinois, Eastern Division.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, Plaintiff,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Defendants.

Bill of Complaint.

342 & 343 First. The plaintiff, Chicago, Burlington & Quincy Railroad Company, is a corporation duly organized and existing under and by virtue of the laws of the State of Illinois, and has been for many years past, and is now, engaged in operating a railroad into and through the States of Illinois, Iowa, Missouri and other States, and has been, and is, engaged as a common carrier in the transportation of passengers by rail from Chicago and other points in Illinois to and through the counties of Cook, DuPage, Kane, Kendall, La Salle, Bureau, Stark, Peoria, Knox, Fulton, Schuyler, Cass, Morgan, Scott, Sangamon, Macoupin, Winnebago, Bond, Montgomery, Clinton, Marion, Jefferson, Franklin, Williamson, Johnson, Massac, Greene, Jersey, Madison, St. Clair, Henry, Warren, McDonough, Hancock, Adams, Pike, Henderson, Mercer, Jo Daviess, De-
Kalb, Lee, Ogle, Carroll, Whiteside and Rock Island, in
344–352 the State of Illinois, and to points in Iowa, Missouri and other States, and that said Railroad Company has its principal place of business in the City of Chicago, in the State of Illinois, and is and was at the times hereinafter mentioned, a com-

mon carrier of passengers by railroad, subject to the provisions of the Act of Congress of February 4, 1887, entitled "An Act to Regulate Commerce," as Amended.

353 Fourth. From July 1, 1907, to December 1, 1914, the passenger fares between St. Louis, Missouri, and points in Illinois upon the line of this plaintiff were upon the basis of two cents per mile, plus bridge toll, which said basis of two cents

354–397 per mile was during such period applied between all points in Illinois as above set forth.

On December 1, 1914, the plaintiff advanced the passenger fares between St. Louis, Missouri, and certain points on its line in Illinois to the basis of two and one-half cents per mile, plus the bridge toll, without making any corresponding advance in passenger fares between points wholly within the State of Illinois.

On January 15, 1916, the plaintiff established passenger fares from St. Louis and Keokuk to all points on its line in Illinois upon the basis of 2.4 cents per mile in accordance with the order of the Interstate Commerce Commission made in the matter known as Western Passenger Fares, Investigation and Suspension Docket No. 600, but without making any corresponding advance of passenger fares between points wholly within the State of Illinois.

398 In the District Court of the United States for the Northern District of Illinois, Eastern Division.

No. 754.

CHICAGO AND ALTON RAILROAD COMPANY,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

Be it remembered, That heretofore to-wit: on the twentieth day of November, 1916, came the plaintiff in the above entitled cause by its solicitors, and filed in the clerk's office of said Court, its certain Bill of Complaint in the words and figures following to-wit:

399–407 In the District Court of the United States, Northern District of Illinois, Eastern Division.

Equity Number 754.

CHICAGO AND ALTON RAILROAD COMPANY, Plaintiff,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Defendants.

Bill of Complaint.

408–536 Fourth. From July 1, 1907, to December 1, 1914, the passenger fares between St. Louis, Missouri, and points in

Illinois upon the line of this plaintiff were upon the basis of 2 cents per mile, plus bridge toll, which said basis of 2 cents per mile was during such period applied between all points in Illinois as above set forth.

On December 1, 1914, the plaintiff advanced the passenger fares between St. Louis, Missouri, and certain points on its line in Illinois to the basis of 2½ cents per mile, plus the bridge toll, without making any corresponding advance in passenger fares between points wholly within the State of Illinois.

537 In the District Court of the United States, Northern District of Illinois, Eastern Division.

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY, Plaintiff,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Defendants.

Bill of Complaint.

538 First. The plaintiff, Chicago, Milwaukee & St. Paul Railway Company, is a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, and has been for many years past, and is now, engaged in operating a railroad into and through the States of Illinois, Iowa, Missouri, Wisconsin and other States, and has been, and is, engaged as a common carrier in the transportation of passengers by rail from Chicago and other points in Illinois to and through the counties of Cook, Lake, DuPage, Kane, McHenry, Winnebago, Stephenson, Whiteside, Rock Island, Lee, DeKalb, Putnam, Ogle, LaSalle, Carroll and Bureau, in the State of Illinois, and to points in Iowa, Missouri and other States, and that said Railway Company has its principal place of business in the City of Milwaukee, in the State of Wisconsin, and is and was at the times hereinafter mentioned, a common carrier of passengers by railroad, subject to the provisions of the Act of Con-

539–543 gress of February 4, 1887, entitled "An Act to Regulate Commerce, as Amended."

544–1391 Fourth. On January 15, 1916, the plaintiff advanced passenger fares between stations on its lines in the States of Missouri and Iowa and the stations on its line in Illinois to the basis of 2.4 cents per mile in accordance with the order of the Interstate Commerce Commission made in the matter known as Western Passenger Fares, Investigation and Suspension Docket No. 600, but without making any corresponding advance of passenger fares between stations wholly within the State of Illinois.

1392 In the District Court of the United States, Northern District of Illinois, Eastern Division.

801.

CHICAGO AND NORTH WESTERN RAILWAY COMPANY,
vs.
STATE PUBLIC UTILITIES COMMISSION OF THE STATE OF ILLINOIS, et al.

Be it remembered, That heretofore to-wit: on the twenty-sixth day of December, 1916, came the Plaintiff in the above entitled cause by its solicitors, and filed in the Clerk's office of said Court, its certain Bill of Complaint in the words and figures following to-wit:

1393 In the District Court of the United States, Northern District of Illinois, Eastern Division.

CHICAGO AND NORTH WESTERN RAILWAY COMPANY, Plaintiff,
vs.
STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, AND WILLIAM L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw and Frank H. Funk, as Members of and Constituting the State Public Utilities Commission of Illinois; Patrick J. Lucey, Attorney General of Illinois; and Maclay Hoyne, State's Attorney of Cook County, Ill.; Charles W. Hadley, State's Attorney of Du Page County, Ill.; Charles L. Abbott, State's Attorney of Kane County, Ill.; James G. Welch, State's Attorney of Lake County, Ill.; Geo. S. Wiley, State's Attorney of La Salle County, Ill.; Josef Skinner, State's Attorney of Bureau County, Ill.; J. W. Fling, Jr., State's Attorney of Stark County, Ill.; C. E. McNemar, State's Attorney of Peoria County, Ill.; Vincent S. Lumley, State's Attorney of McHenry County, Ill.; Edmund P. Nischwitz, State's Attorney of Mason County, Ill.; C. F. Mortimer, State's Attorney of Sangamon County, Ill.; Victor H. Hemphill, State's Attorney of Macoupin County, Ill.; William Johnson, State's Attorney of Winnebago County, Ill.; P. H. O'Donnell, State's Attorney of Boone County, Ill.; Charles H. Green, State's Attorney of Stephenson County, Ill.; Henry Jacobs, State's Attorney of Marshall County, Ill.; E. E. Black, State's Attorney of Tazewell County, Ill.; Henry E. Pond, State's Attorney of Menard County, Ill.; Joseph H. Streuber, State's Attorney of Madison County, Ill.; Harry C. Tear, State's Attorney of Jo Daviess County, Ill.; Lowell B. Smith, State's Attorney of De Kalb County, Ill.; Harry Edwards, State's Attorney of Lee County, Ill.; William J. Emerson, State's Attorney of Ogle County, Ill., and J. J. Ludens, State's Attorney of Whiteside County, Ill., Defendants.

Bill of Complaint.

To the Judges of the District Court of the United States in and for the Northern District of Illinois, Eastern Division:

The plaintiff, Chicago and North Western Railway Company, presents its bill of complaint against the defendants, State Public

Utilities Commission of Illinois; and William L. O'Connell,
1394 Owen P. Thompson, Richard Yates, Walter A. Shaw, and Frank H. Funk, members of and constituting the State Public Utilities Commission of Illinois; and Patrick J. Lucey, Attorney General of Illinois; and Maclay Hoyne, State's Attorney of Cook County, Illinois; Charles W. Hadley, State's Attorney of Du Page County, Illinois; Charles L. Abbott, State's Attorney of Kane County, Illinois; James G. Welch, State's Attorney of Lake County, Illinois; Geo. S. Wiley, State's Attorney of La Salle County, Illinois; Josef Skinner, State's Attorney of Bureau County, Illinois; J. W. Fling, Jr., State's Attorney of Stark County, Illinois; C. E. McNemar, State's Attorney of Peoria County, Illinois; Vincent S. Lumley, State's Attorney of McHenry County, Illinois; Edmund P. Nischwitz, State's Attorney of Mason County, Illinois; C. F. Mortimer, State's Attorney of Sangamon County, Illinois; Victor H. Hemphill, State's Attorney of Macoupin County, Illinois; William Johnson, State's Attorney of Winnebago County, Illinois; P. H. O'Donnell, State's Attorney of Boone County, Illinois; Charles H. Green, State's Attorney of Stephenson County, Illinois; Henry Jacobs, State's Attorney of Marshall County, Illinois; E. E. Black, State's Attorney of Tazewell County, Illinois; Henry E. Pond, State's Attorney of Menard County, Illinois; Joseph H. Streuber, State's Attorney of Madison County, Illinois; Harry C. Tear, State's Attorney of Jo Daviess County, Illinois; Lowell B. Smith, State's Attorney of De Kalb County, Illinois; Harry Edwards, State's Attorney of Lee County, Illinois; William J. Emerson, State's Attorney of Ogle County, Illinois; and J. J. Ludens, State's Attorney of Whiteside County, Illinois, and for cause of action says:

First. The plaintiff, Chicago and North Western Railway Company, is a corporation duly organized and existing under and by virtue of the laws of the States of Illinois, Wisconsin and Michigan,
and has been for many years past and is now engaged in op-
1395 erating a railroad into and through the States of Illinois, Iowa, Wisconsin, Michigan, Minnesota, North Dakota, South Dakota, Nebraska and Wyoming, and has been and is engaged as a common carrier in the transportation of passengers by rail from Chicago and other points in Illinois to and through the Counties of Cook, Lake, McHenry, Boone, Winnebago, Stephenson, Jo Daviess, Du Page, Kane, De Kalb, Ogle, Lee, Whiteside, La Salle, Bureau, Stark, Marshall, Peoria, Tazewell, Mason, Menard, Sangamon, Macoupin and Madison in the State of Illinois, and to points in Iowa, Missouri and other states, and that said Railway Company has its principal place of business in the City of Chicago, in the State of Illinois, and is and was at the times hereinafter mentioned a common carrier of passengers by railroad, subject to the provisions of the act of Congress approved February 4, 1887, entitled "An Act to Regulate Commerce, as Amended."

The State Public Utilities Commission of Illnois was created and exists under and by virtue of a law of the State of Illinois entitled "An Act to Provide for the Regulation of Public Utilities," approved June 30, 1913, effective January 1, 1914, and said Commission is

thereby empowered to enforce the provisions of said act as hereinafter set forth, and has an office in the State Capitol at Springfield, in the Southern District of Illinois, Southern Division, and also an office in the City of Chicago, in the Northern District of Illinois, Eastern Division, and is constituted as hereinafter set forth.

The defendant, William L. O'Connell, is a citizen of the State of Illinois, and a resident of Chicago, in the Northern District of Illinois, Eastern Division.

The defendant, Owen P. Thompson, is a citizen of the State of Illinois, and a resident of Jacksonville, in the Southern District of Illinois, Southern Division.

The defendant, Walter A. Shaw, is a citizen of the State of
1396 Illinois, and a resident of Chicago, in the Northern District of Illinois, Eastern Division.

The defendant, Richard Yates, is a citizen of the State of Illinois, and a resident of Springfield, in the Southern District of Illinois, Southern Division.

The defendant, Frank H. Funk, is a citizen of the State of Illinois, and a resident of Bloomington, in the Southern District of Illinois, Southern Division.

The said defendants are the duly appointed, qualified and acting members of the State Public Utilities Commission of Illinois, created and existing under and by virtue of the laws of the State of Illinois entitled "An Act to provide for the regulation of Public Utilities," approved June 30, 1913, in force January 1, 1914.

The defendant, Patrick J. Lucey, is a citizen of the State of Illinois, and a resident of Streator, in the Northern District of Illinois, Eastern Division, and is the duly elected, qualified and acting Attorney General of the State of Illinois.

The defendant, Maclay Hoyne, is a citizen of the State of Illinois, and a resident of Chicago, in the Northern District of Illinois, Eastern Division, and is the duly elected, qualified and acting State's Attorney, of the County of Cook, in the State of Illinois.

The defendant, Charles W. Hadley, is a citizen of the State of Illinois, and a resident of Wheaton, in the Northern District of Illinois, Eastern Division, and is the duly elected, qualified and acting State's Attorney of the County of Du Page, in the State of Illinois.

The defendant, Charles L. Abbott, is a citizen of the State of Illinois, and a resident of Elgin, in the Northern District of Illinois, Eastern Division, and is the duly elected, qualified and acting State's Attorney of the County of Kane, in the State of Illinois.

1397 The defendant, James G. Welch, is a citizen of the State of Illinois, and a resident of Waukegan, in the Northern District of Illinois, Eastern Division, and is the duly elected, qualified and acting State's Attorney of the County of Lake, in the State of Illinois.

The defendant, Geo. S. Wiley, is a citizen of the State of Illinois, and a resident of Ottawa, in the Northern District of Illinois, Eastern Division, and is the duly elected, qualified and acting State's Attorney of the County of La Salle, in the State of Illinois.

The defendant, Josef Skinner, is a citizen of the State of Illinois,

and a resident of Princeton, in the Southern District of Illinois, Northern Division, and is the duly elected, qualified and acting State's Attorney of the County of Bureau, in the State of Illinois.

The defendant, J. W. Fling, Jr., is a citizen of the State of Illinois, and a resident of Wyoming, in the Southern District of Illinois, Northern Division, and is the duly elected, qualified and acting State's Attorney of the County of Stark, in the State of Illinois.

The defendant, C. E. McNemar, is a citizen of the State of Illinois, and a resident of Peoria, in the Southern District of Illinois, Northern Division, and is the duly elected, qualified and acting State's Attorney of the County of Peoria, in the State of Illinois.

The defendant, Vincent S. Lumley, is a citizen of the State of Illinois, and a resident of Woodstock, in the Northern District of Illinois, Eastern Division, and is the duly elected, qualified and acting State's Attorney of the County of McHenry, in the State of Illinois.

The defendant, Edmund P. Nischwitz, is a citizen of the State of Illinois, and a resident of Havana, in the Southern District of Illinois, Southern Division, and is the *only* elected, qualified and
1398 acting State's Attorney of the County of Mason, in the State of Illinois.

The defendant, C. F. Mortimer, is a citizen of the State of Illinois, and a resident of Springfield, in the Southern District of Illinois, Southern Division, and is the duly elected, qualified and acting State's Attorney of the County of Sangamon, in the State of Illinois.

The defendant, Victor H. Hemphill, is a citizen of the State of Illinois, and a resident of Carlinville, in the Southern District of Illinois, Southern Division, and is the duly elected, qualified and acting State's Attorney of the County of Macoupin, in the State of Illinois.

The defendant, William Johnson, is a citizen of the State of Illinois, and a resident of Rockford, in the Northern District of Illinois, Western Division, and is the duly elected, qualified and acting State's Attorney of the County of Winnebago, in the State of Illinois.

The defendant, P. H. O'Donnell, is a citizen of the State of Illinois, and a resident of Belvidere, in the Northern District of Illinois, Western Division, and is the duly elected, qualified and acting State's Attorney of the County of Boone, in the State of Illinois.

The defendant, Charles H. Green, is a citizen of the State of Illinois, and a resident of Freeport, in the Northern District of Illinois, Western Division, and is the duly elected, qualified and acting State's Attorney of the County of Stephenson, in the State of Illinois.

The defendant, Henry Jacobs, is a citizen of the State of Illinois, and a resident of Henry, in the Southern District of Illinois, Northern Division, and is the duly elected, qualified and acting State's Attorney of the County of Marshall, in the State of Illinois.

The defendant, E. E. Black, is a citizen of the State of
1399 Illinois, and a resident of Pekin, in the Southern District of Illinois, Northern Division, and is the duly elected, qualified and acting State's Attorney of the County of Tazewell, in the State of Illinois.

The defendant, Henry E. Pond, is a citizen of the State of Illinois,

and a resident of Petersburg, in the Southern District of Illinois, Southern Division, and is the duly elected, qualified and acting State's Attorney of the County of Menard, in the State of Illinois.

The defendant, Joseph H. Streuber, is a citizen of the State of Illinois, and a resident of Highland, in the Southern District of Illinois, Southern Division, and is the duly elected, qualified and acting State's Attorney of the County of Madison, in the State of Illinois.

The defendant, Harry C. Tear, is a citizen of the State of Illinois, and a resident of Warren, in the Northern District of Illinois, Western Division, and is the duly elected, qualified and acting State's Attorney of the County of Jo Daviess, in the State of Illinois.

The defendant, Lowell B. Smith, is a citizen of the State of Illinois, and a resident of Sycamore, in the Northern District of Illinois, Eastern Division, and is the duly elected, qualified and acting State's Attorney of the County of De Kalb, in the State of Illinois.

The defendant, Harry Edwards, is a citizen of the State of Illinois, and a resident of Dixon, in the Northern District of Illinois, Western Division, and is the duly elected, qualified and acting State's Attorney of the County of Lee, in the State of Illinois.

The defendant, William J. Emerson, is a citizen of the State of Illinois, and a resident of Oregon, in the Northern District of Illinois, Western Division, and is the duly elected, qualified and acting State's Attorney of the County of Ogle, in the State of Illinois.

1400 The defendant, J. J. Ludens, is a citizen of the State of Illinois, and a resident of Sterling, in the Northern District of Illinois, Western Division, and is the duly elected, qualified and acting State's Attorney of the County of Whiteside, in the State of Illinois.

Second. This case involves a question arising under the Constitution and laws of the United States, and particularly under the act of Congress of February 4, 1887, entitled "An Act to Regulate Commerce," as amended, and the amount involved is in excess of $3,000.00, exclusive of interest and costs. The action is of a civil nature, and involves the right of the plaintiff to put in force within the State of Illinois passenger fares which the Interstate Commerce Commission in the full exercise of rightful jurisdiction has held to be reasonable and just, and which plaintiff has been authorized and ordered to establish by said Interstate Commerce Commission in order to remove the undue preferences, and the undue and unreasonable prejudices and disadvantages which are found by the said Interstate Commerce Commission to exist.

Third. Prior to July 1, 1907, the plaintiff charged and collected for the transportation of passengers upon its railroad between points in said State fares upon the basis of 3c. per mile for the carriage of adult passengers, and upon the basis of 1½c. per mile for the carriage of passengers under twelve years of age. On May 27, 1907, the Governor of Illinois approved an act of the Legislature of that State entitled "An Act to establish and regulate the maximum rate of charges for the transportation of passengers by corporations or companies operating or controlling railroads in part or in whole in this State, and to provide penalties for the violation of the provisions thereof,

and repealing all acts and parts of Acts in conflict herewith," which said Act became effective July 1, 1907, and now appears as
1401 Section 233, Chapter 114 of the Revised Statutes of the State of Illinois (1915-1916), and is known as the "Maximum Rate of Charges" law. In and by said Act it was provided that thereafter it should be unlawful for any corporation or company engaged in the carriage of passengers upon any railroad between points in the State of Illinois to charge in excess of 2c per mile for the carriage of their passengers where any passenger had purchased a ticket entitling him to carriage, or in excess of 1c. per mile for the carriage of a passenger under twelve years of age where such passenger had purchased a ticket entitling him to carriage. It was further provided by Section 2 of said Act, being Section 234, Chapter 114 of the Revised Statutes of the State of Illinois (1915-1916) that for any violation of the provisions of said Act by any such corporation or company, its agent or employe, such corporation or company should forfeit and pay to the State of Illinois a penalty of not less than twenty-five, nor more than one hundred dollars, for every such violation, to be recovered by suit brought in the name of the State of Illinois by the Attorney General of the State in a court of competent jurisdiction in any county into or through which said corporation or company ran or passed, or by the State's Attorney of any county through which said corporation or company ran or passed. And it was further provided that where such penalty was recovered in a suit brought by a State's Attorney, as provided by the Act, there should be recovered in addition thereto the sum of $10 as compensation for said prosecuting attorney. The plaintiff was by virtue of the laws of the State of Illinois compelled to, and did put in force, on and after July 1, 1907, and collect the passenger fares provided in said statute under the penalties therein named.

Fourth. From July 1, 1907, to January 15, 1916, the passenger fares between points on this plaintiff's line in Illinois and St.
1402 Louis, Missouri, and to Keokuk, Iowa, made in connection with the other lines of road serving those places directly with their own rails, were upon the basis of two cents per mile, plus the bridge tolls, which said basis of two cents a mile during said period also applied between all points in Illinois, as above set forth.

On or about January 15, 1916, the plaintiff established in connection with its connections passenger fares from and to St. Louis and Keokuk, and other points outside the State of Illinois, to and from all points on its line in Illinois upon the basis of 2.4 cents per mile, in accordance with the order and decision of the Interstate Commerce Commission made in the matter known as the Western Passenger Fares, Investigation and Suspension Docket No. 600, but without making any corresponding changes or advance in the passenger fares between points wholly within the State of Illinois.

Fifth. On or about the fourteenth day of June, 1915, the Business Men's League of St. Louis, a corporation, filed its complaint with the Interstate Commerce Commission against this plaintiff and others, which said proceeding is known as Docket No. 8083 of the Interstate Commerce Commission, entitled "Business Men's League of St.

Louis v. The Atchison, Topeka & Santa Fe Railway Company et al." in which said complaint it was charged, among other things, that the passenger fares between St. Louis, Missouri, and points in Illinois, were unjust and unreasonable, unduly discriminatory, prejudicial, and unlawful, in violation of Sections 1, 2, 3 and 4 of the Act to Regulate Commerce, and it was especially alleged that the failure of the plaintiff to increase the intrastate fares in Illinois, while increasing the interstate fares ½c per mile between St. Louis and stations in Illinois had resulted in a disparity in the charges between Illinois points and St. Louis on the one hand, and East St. Louis, Chicago and other Illinois points on the other, which
1403 worked a discrimination on inbound and outbound passenger traffic passing over plaintiff's lines between St. Louis and points in Illinois, which constituted an unjust discrimination and undue preference and advantage, in violation of the provisions of the Act to Regulate Commerce.

The defendants in said case included practically all the railroads engaged in common carriage of passengers within the State of Illinois. In said proceedings, the Chicago Association of Commerce intervened, averring that the granting of the relief asked for would create unjust discrimination against Chicago, if as a consequence Illinois intrastate charges should be increased. The State Public Utilities Commission of Illinois also intervened, averring that the Illinois intrastate fares were not discriminatory, as compared with the fares between St. Louis and Illinois points; that the Illinois intrastate fares were fixed at 2c a mile by the Illinois Legislature; that a comparison between the charges from St. Louis to Illinois points could not be fairly made with the fares for equal distance in Illinois because of the costly service involved in the use of the terminals at St. Louis and the bridges at that place over the Mississippi River; and, finally, that the Interstate Commerce Commission had no authority to fix transportation charges for carriage wholly in Illinois.

The East Side Manufacturers' Association, constituted of interests in East St. Louis, Madison and Granite City, Illinois, also intervened and protested against any action which would result in an increase of the charges for intrastate transportation in Illinois, and denied that its members had any undue advantage, and contended that the Interstate Commerce Commission had no power to order a readjustment of the charges for carriage wholly within Illinois. The Keokuk Industrial Association, of Keokuk, Iowa, also intervened and averred that Keokuk was in competition with St. Louis, and that any change in rates, rules or practices made with respect to St. Louis upon
1404 the traffic in question, should be applied also to Keokuk, and that otherwise the result would be unjust discrimination.

The State of Illinois and the people of the State of Illinois, intervened by Patrick J. Lucey, Attorney General, and averred that the power to prescribe and regulate fares of passengers in Illinois was vested in the Legislature of Illinois; that the Legislature had fixed a maximum of 2 cents a mile for passenger travel in Illinois; that this act imposed no burden on interstate commerce; and that an allegation of unjust discrimination against St. Louis could not be

predicated upon a comparison of charges which did not take into consideration the expense of the terminals at St. Louis and the bridge across the Mississippi River.

This plaintiff answered the said complaint, denying that the passenger fares complained of were unjust or unreasonable, or unduly discriminatory, or in violation of the Act to Regulate Commerce.

Sixth. The said complaint was duly heard by the Interstate Commerce Commission, and the various complainants and defendants, and interveners, including the State Public Utilities Commission of Illinois, and the State of Illinois, and the People of the State of Illinois through Patrick J. Lucey, Attorney General, and Timothy F. Mullen and Thomas Dempey, Assistant Attorneys General, appeared at said hearing, and offered evidence, filed briefs, and participated in the oral argument. After full hearing, filing of briefs and making oral argument, the Interstate Commerce Commission on to-wit: the 12th day of July, 1916, filed its findings, report and order. By said report and order the said Commission found, for the purpose of ending the discrimination therein found, that the passenger fares for travel between St. Louis, Missouri and Keokuk, Iowa, on the one hand, and points in Illinois on the other, were just and rea-
1405 sonable maximum fares where not in excess of 2.4c per mile, tolls over the Mississippi River bridge excepted; that the contemporaneous maintenance of fares between points in Illinois, on the one hand, lower than those maintained between said St. Louis and Keokuk and points in Illinois, on the other, gave undue and unreasonable preference and advantage to intrastate passenger traffic in the State of Illinois and to the localities within said State, and subjected interstate passenger traffic between St. Louis and Keokuk on the one hand, and Illinois points on the other, to undue and unreasonable prejudice and disadvantage, and imposed an unreasonable and unlawful burden on interstate passenger traffic; that the tolls collected for crossing bridges over the Mississippi River at St. Louis and Keokuk were just and reasonable; that the maintenance of lower passenger fares from Chicago to points in Illinois than from St. Louis and Keokuk to points in Illinois resulted in undue preference and advantage in favor of Chicago to the extent that the fares between St. Louis and Keokuk, and the aforesaid Illinois points, exceeded the fares between Chicago and Illinois points, where the distances were approximately equal, by more than a reasonable bridge toll. The order of the Interstate Commerce Commission required the establishment, on or before October 16, 1916, of passenger fares between St. Louis and Keokuk aforesaid, and all points within the State of Illinois, upon a basis not higher than 2.4c a mile, bridge tolls excepted, and required that the discrimination against St. Louis and Keokuk, and against interstate passenger traffic be removed on or before October 16, 1916. A copy of this opinion and order is hereto attached, marked "Exhibit A," and made a part of this Bill of Complaint.

Seventh. Afterwards on, to-wit, the 6th day of September, 1916, the Interstate Commerce Commission made its order postponing the effective date of the order of July 12, 1916, until the 16th day of No-

vember, 1916, but in all other respects leaving the said order
1406 in full force and effect. A copy of said order is hereto attached, marked "Exhibit B," and made a part of this Bill of Complaint.

Eighth. Afterwards on, to-wit: the 11th day of October, 1916, the Interstate Commerce Commission made its order postponing until further order of the Commission the effective date of its order of July 12, 1916, as subsequently amended by order of September 6, 1916. A copy of said order is hereto attached, marked "Exhibit C," and made a part of this Bill of Complaint.

Ninth. Afterwards on, to-wit: the 17th day of October, 1916, the Interstate Commerce Commission made its supplemental report and order, wherein it found that the interstate fares between St. Louis and Keokuk on the one hand, and interior Illinois points on the other, made on a per mile basis of 2.4c would be subject to defeat if the state fares to and from interior Illinois points intermediate to the passengers' ultimate destination be made upon a basis lower than the fares applying between St. Louis or Keokuk and such Illinois destinations, and that any contemporaneous adjustment of fares between St. Louis or Keokuk and Illinois points, and generally within the State of Illinois which would permit the defeat of the St. Louis, Keokuk, East St. Louis, or any other east side city fares by using interstate tickets purchased at interstate fares between St. Louis or Keokuk and any east side point in Illinois, and thus continuing the journey to or from any Illinois points on a ticket purchased at the lower State fare and which would thereby permit the continuance of the undue prejudice found to be suffered by St. Louis and Keokuk, and which would continue to burden interstate passenger traffic, would not comply with the amended order entered therein on, to-wit: the 17th day of October, 1916. The order of the Interstate Commerce Commission, of, to-wit: October 17, 1916, directed this plaintiff and other defendants to the said complaint, to cease and desist, on or before January 15, 1917, from publishing, de-
1407 manding or collecting passenger fares between St. Louis and Keokuk on the one hand, and points in Illinois on the other, upon a basis higher than 2.4c per mile, bridge tolls excepted; or higher than the fares contemporaneously exacted for the transportation of passengers between East St. Louis, Illinois, or Illinois points directly opposite Keokuk, and the same Illinois points, by more than a reasonable bridge toll; or fares constructed upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained between Illinois points intermediate between St. Louis and Keokuk on the one hand, and points in Illinois on the other, as such fares were found in said report to be unlawfully discriminatory; and to cease and desist, on or before January 15, 1917, from publishing, demanding or collecting fares for the transportation of passengers between St. Louis and Keokuk on the one hand, and points in Illinois on the other, the basis of which per mile, bridge tolls excepted, is higher than the basis per mile for fares contemporaneously maintained between Chicago and the same Illinois points, as such fares were found in said report to be unlawfully discriminatory. And this

plaintiff and the other defendants to said complaint, were directed, on or before January 15, 1917, upon notice to the Interstate Commerce Commission and to the general public by not less than thirty days' filing and posting in the manner prescribed in Section 6 of the Act to Regulate Commerce, to establish and put in force, and thereafter to maintain and apply passenger fares between St. Louis and Keokuk on the one hand, and points in Illinois on the other, the basis of which per mile, bridge tolls excepted, should not exceed 2.4c per mile, which basis was found reasonable in the said report of July 12, 1916, nor be in excess per mile of the fares between points in Illinois directly opposite to Keokuk and St. Louis and the same points, by more than a reasonable bridge toll; and likewise to establish, maintain and apply passenger fares between Keokuk
1408 and St. Louis on the one hand, and points in Illinois on the other, the basis of which per mile, bridge tolls excepted, is not higher than the basis per mile for fares contemporaneously maintained between Chicago and those same Illinois points; and to cease and desist, on or before January 15, 1917, and thereafter to abstain from the undue preferences, and the undue and unreasonable prejudices and disadvantages found in said reports of July 12, 1916, and October 17, 1916, to result from the contemporaneous maintenance between Illinois points of passenger fares, which fares in combination with other fares, required or permitted by said order of October 17, 1916, would produce the discrimination against interstate commerce, and the undue preferences in favor of intrastate commerce condemned in the said reports of the Commission. A copy of this supplemental report and order of, to-wit: October 17, 1916, is hereto attached, marked "Exhibit D" and made a part of this Bill of Complaint.

The plaintiff further shows to the court that upon motion by the complainants in the above entitled case before the Interstate Commerce Commission, to-wit: the Business Men's League of St. Louis v. A. T. & S. F. Ry. Co. et al., I. C. C. Docket No. 8083, the Interstate Commerce Commission on the 9th day of December, 1916, made and entered its order making the Chicago & North Western Railway Company, plaintiff herein, a party to said case and making the order heretofore issued in said above referred to case of the Business Men's League of St. Louis v. A. T. & S. F. Ry. Co. et al., applicable in all particulars to the Chicago & North Western Railway Company. A copy of said order is hereto attached and marked "Exhibit E."

Tenth. Copies of said reports and orders, respectively, Exhibits A, B, C, D and E, were duly served upon this plaintiff. Pursuant to the said order of October 17, 1916, the plaintiff has prepared tariffs of passenger fares in accordance with the fares authorized in the said report of July 12, 1916, and the supplemental report
1409 of October 17, 1916, and in the order of October 17, 1916, for application to the transportation of passengers between St. Louis and Keokuk on the one hand, and Illinois points on the other, and between all points in the State of Illinois, which are now filed with the Interstate Commerce Commission and the State Public Utilities Commission of Illinois, and posted as required by law, which

fares will all be upon a basis of 2.4c per mile, bridge tolls excepted, as provided in said reports and order, and which fares in said tariffs so filed and posted, will become, on or before January 15, 1917, the lawful fares to be charged for the transportation of passengers between all points in the State of Illinois, to the exclusion of the fares prescribed by the Maximum Rate of Charges law, being Section 233, of Chapter 114, of the Revised Statutes of the State of Illinois (1915-1916).

Eleventh. Plaintiff further shows to the court that under the Public Utilities Law of Illinois known as Chapter 111-A of the Revised Statutes of Illinois (1915-1916) to which the plaintiff as a common carrier of passengers is subject, it is provided, in Section 33 thereof, that all schedules of rates, fares and charges shall be filed with the State Public Utilities Commission of Illinois; and, in Section 34 thereof, that schedules of all the rates, fares and charges shall be published and posted in the manner and form prescribed by the State Public Utilities Commission; and, in Section 35 thereof, that no service shall be rendered until schedules showing the rates, fares and charges have been filed and published as provided by the said Act; and, in Section 36 thereof, that no changes in any rates or charges shall be made except after thirty days' notice to the Commission and the public as therein provided, and that no rates or charges shall be increased under any circumstances whatsoever except upon a showing to the State Public Utilities Commission of Illinois and a finding by the Commission that such increase is justified, and it is pro-
1410 vided that the said State Public Utilities Commission shall have the power to suspend tariffs showing any such advances until the propriety of the same may be determined after hearing and decision by said Commission. By Section 37 of said law it is forbidden to charge greater or less compensation than the published rates or charges. Section 76 of said law provides that any violation of any provision of said act, or any failure to comply with any order or requirement of the said State Public Utilities Commission, shall be punished by a fine of not less than $500, nor more than $2,000, for each offense, and that every violation of the provisions of said Act or of any such order or requirement of the Commission, shall be a separate and distinct offense. By Section 77 of said law every officer, agent or employe of the plaintiff who violates or fails to comply with any provision of the said act, or fails to observe, obey or comply with any order or requirement of the said Commission, or who procures, aids, or abets any public utility in its violation of the act, or in its failure to obey, observe or comply with the said Act or any order or requirement of the said Commission, is guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or both. For a continuing violation of either of said sections, each day's continuation is deemed to be a separate and distinct offense.

Plaintiff further shows to the court that under the law of the State of Illinois, it is the duty of the State Public Utilities Commission of Illinois, and of the Attorney General of the State of Illinois, to en-

force the provisions of the Constitution and the Statutes of the State of Illinois affecting public utilities, and to see that violations thereof are promptly prosecuted, and penalties due the State therefor are recovered and collected as provided in Sections 78 and 79 of the Public Utilities law of Illinois, being Chapter 111*a*, of the Revised Statutes of Illinois (1915-1916), and that the Attorney General
1411 of the State of Illinois, and the various State's Attorneys are authorized to bring suits in the name of the State of Illinois for violation of the said Maximum Rate of Charges law, as provided in Section 2 of said law, and as above set forth in paragraph 3 of this Bill of Complaint. Plaintiff further shows that the defendants, the members of the State Public Utilities Commission of Illinois, and the defendant Patrick J. Lucey, Attorney General of Illinois, have threatened the plaintiff, its officers, agents and employes, with prosecutions under the Public Utilities law of the State of Illinois, and under other statutes of the State of Illinois, including the said Maximum Rate of Charges law, for failure on the part of the plaintiff to comply with the provisions of the said Maximum Rate of Charges law in filing the tariffs and demanding and collecting the increased passenger fares authorized by the Interstate Commerce Commission, as above set forth, and have threatened many suits against the plaintiff for the collection of the excessive penalties provided for in said Maximum Rate of Charges law, and in the other statutes above referred to.

Twelfth. The plaintiff further shows that the said Patrick J. Lucey, Attorney General, and the said Maclay Hoyne, State's Attorney of Cook County, Illinois, and Charles W. Hadley, State's Attorney of Du Page County, Illinois; Charles L. Abbott, State's Attorney of Kane County, Illinois; James G. Welch, State's Attorney of Lake County, Illinois; Geo. S. Wiley, State's Attorney of La Salle County, Illinois; Josef Skinner, State's Attorney of Bureau County, Illinois; J. W. Fling Jr., State's Attorney of Stark County, Illinois; C. E. McNemar, State's Attorney of Peoria County, Illinois; Vincent S. Lumley, State's Attorney of McHenry County, Illinois; Edmund P. Nischwitz, State's Attorney of Mason County, Illinois; C. F. Mortimer, State's Attorney of Sangamon County, Illinois; Victor H. Hemphill, State's Attorney of Macoupin County, Illinois;
1412 William Johnson, State's Attorney of Winnebago County, Illinois; P. H. O'Donnell, State's Attorney of Boone County, Illinois; Charles H. Green, State's Attorney of Stephenson County, Illinois; Henry Jacobs, State's Attorney of Marshall County, Illinois; E. E. Black, State's Attorney of Tazewell County, Illinois; Henry E. Pond, State's Attorney of Menard County, Illinois; Joseph H. Streuber, State's Attorney of Madison County, Illinois; Harry C. Tear, State's Attorney of Jo Daviess County, Illinois; Lowell B. Smith, State's Attorney of De Kalb County, Illinois; Harry Edwards, State's Attorney of Lee County, Illinois; William J. Emerson, State's Attorney of Ogle County, Illinois; and J. J. Ludens, State's Attorney of Whiteside County, Illinois, defendants herein, in pursuance of the duty imposed upon them by the Maximum Rate of Charges law, the Public Utilities law of Illinois, and other statutes of said State, will

unless restrained by the order of this court, and in case this plaintiff shall not abide by said Maximum Rate of Charges law, or the Public Utilities law of Illinois, or shall disobey their terms, notwithstanding said laws as to the rights of the plaintiff herein are wholly unconstitutional and void, institute innumerable prosecutions against this plaintiff for violations of said laws, and plaintiff will be subjected to innumerable, enormous and excessive fines and penalties, and its employes who disobey the terms of said laws will be subjected to innumerable, enormous and excessive fines and severe imprisonments, and plaintiff and its employes will thereby be intimidated and prevented from testing in good faith in this court the validity of said laws.

Thirteenth. Plaintiff is informed and believes and so charges the fact to be that unless defendants, the members of the State Public Utilities Commission of Illinois, and their agents, servants and employes, and those acting under their authority and instructions, are enjoined by the order of this court, they will refuse to receive,
1413 accept, recognize or file or will suspend any and all tariffs fixing passenger fares contrary to or different from those fixed in the Maximum Rate of Charges law above referred to.

Fourteenth. Plaintiff shows that, unless the defendants are enjoined as aforesaid, there will result a great multiplicity of suits, and plaintiff will be subjected to vexatious and excessive penalties, and will be deprived of its right and power to collect the just, reasonable and nondiscriminatory fares, amounting to many thousands of dollars, under its proposed tariffs, and will thereby suffer great and irreparable injury.

By reason of said facts, the plaintiff shows:

(1) That said Maximum Rate of Charges law, entitled "An Act to establish and regulate the maximum rate of charges for the transportation of passengers by corporations or companies operating or controlling railroads in part or in whole in this state, and to provide penalties for the violation of the provisions thereof and repealing all acts and parts of acts in conflict herewith. Approved May 27, 1907. In force July 1, 1907," being Section 233 of the Chapter 114, of the Revised Statutes of the State of Illinois (1915-1916), is null and void because it is in conflict with the said report of the Interstate Commerce Commission of July 12, 1916, and the supplemental report and order of said Commission of October 17, 1916, and is a burden upon, and direct interference with, interstate commerce, and in violation of the Constitution of the United States, particularly in violation of paragraph 3, of Section 8, of Article 1 thereof, and also in violation of the Act to Regulate Commerce, and has been so found to be by the said reports and order of the Interstate Commerce Commission.

(2) That Section 2 of the said Maximum Rate of Charges law is void, and Sections 76 and 77 of the Public Utilities law of
1414 Illinois are each and all void, and because of the enormous penalties named therein, deny to this plaintiff the equal protection of the laws, and deprive it of its property without due

process of law, in violation of the Constitution of the United States, and particularly the Fourteenth Amendment thereof.

Wherefore, as it is without adequate remedy at law for its protection in said matter, plaintiff prays:

(1) That the Maximum Rate of Charges law, being Section 233, of Chapter 114, of the Revised Statutes of Illinois (1915-1916), be declared to be in conflict with the reports and order of the Interstate Commerce Commission hereto attached, marked Exhibit A and Exhibit D, and to be in violation of the constitutional rights of this plaintiff, and to be null and void.

(2) That Section 234, Chapter 114, of the Revised Statutes of Illinois (1915-1916), and Sections 76 and 77 of the Public Utilities Law of Illinois, Chapter 111*a* of the Revised Statutes of Illinois (1915-1916), and each of them, be declared to be in violation of the constitutional rights of the plaintiff and to be null and void.

(3) That the defendants, the State Public Utilities Commission of Illinois, and William L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw and Frank H. Funk, individually and as members of the State Public Utilities Commission of Illinois, and each and all of the servants, employees and agents and other parties acting under the control or authority of each and all of said defendants, be enjoined from refusing to receive, accept, recognize or file or from suspending the tariffs presented by plaintiff for the establishment of fares upon the basis authorized by the Interstate Commerce Commission in its reports and order referred to.

(4) That the defendants, the State Public Utilities Commission of Illinois, and William L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw and Frank H. Funk, in-
1415 dividually and as members of the State Public Utilities Commission of Illinois, and Patrick J. Lucey, Attorney General of Illinois, and Maclay Hoyne, State's Attorney of Cook County, Illinois, and Charles W. Hadley, State's Attorney of Du Page County, Illinois; Charles L. Abbott, State's Attorney of Kane County, Illinois; James G. Welch, State's Attorney of Lake County, Illinois; Geo. S. Wiley, State's Attorney of La Salle County, Illinois; Josef Skinner, State's Attorney of Bureau County, Illinois; J. W. Fling, Jr., State's Attorney of Stark County, Illinois; C. E. McNemar, State's Attorney of Peoria County, Illinois; Vincent S. Lumley, State's Attorney of McHenry County, Illinois; Edmund P. Nischwitz, State's Attorney of Mason County, Illinois; C. F. Mortimer, State's Attorney of Sangamon County, Illinois; Victor H. Hemphill, State's Attorney of Macoupin County, Illinois; William Johnson, State's Attorney of Winnebago County, Illinois; P. H. O'Donnell, State's Attorney of Boone County, Illinois; Charles H. Green, State's Attorney of Stephenson County, Illinois; Henry Jacobs, State's Attorney of Marshall County, Illinois; E. E. Black, State's Attorney of Tazewell County, Illinois; Henry E. Pond, State's Attorney of Menard County, Illinois; Joseph H. Streuber, State's Attorney of Madison County, Illinois; Harry C. Tear, State's Attorney of Jo Daviess County, Illinois; Lowell B. Smith, State's Attorney of De Kalb County, Illinois; Harry Edwards, State's Attorney of Lee County, Illinois; William J. Emer-

son, State's Attorney of Ogle County, Illinois; and J. J. Ludens, State's Attorney of Whiteside County, Illinois, defendants, their agents, servants and employes, and all persons acting under their control, authority or direction, and their successors in office, be perpetually enjoined and restrained from beginning any civil suit or suits, or criminal proceedings or prosecutions to prevent this plaintiff from putting into effect the fares hereinbefore referred to, or from in any way obeying the said order of October 17, 1916, the
1416 Interstate Commerce Commission, and from beginning or encouraging any civil suit or suits, criminal proceedings or prosecutions for the purpose of enforcing any penalties for failure to comply with the Statutes of the State of Illinois, for or on account of anything done, or to be done, by this plaintiff in the publishing, filing and posting of the tariffs above referred to, and the establishment, maintenance and collection of the fares therein provided, and that, pending the issuance of a perpetual injunction herein, this Honorable Court may grant a temporary injunction herein restraining the said defendants, and each of them, and their successors in office in the manner aforesaid, from instituting any suits or prosecutions hereinbefore mentioned, until the final hearing or order of this court.

The plaintiff prays not only a writ of injunction conformable to the prayer, but also that a subpœna of the United States of America issue out of and under the seal of this Honorable Court, directed to the defendants, the State Public Utilities Commission of Illinois, and William L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw, and Frank H. Funk, individually and as members of the State Public Utilities Commission of Illinois, and Patrick J. Lucey, Attorney General of Illinois, and Maclay Hoyne, State's Attorney of Cook County, Illinois, and Charles W. Hadley, State's Attorney of Du Page County, Illinois; Charles L. Abbott, State's Attorney of Kane County, Illinois; James G. Welch, State's Attorney of Lake County, Illinois; Geo. S. Wiley, State's Attorney of La Salle County, Illinois; Josef Skinner, State's Attorney of Bureau County, Illinois; J. W. Fling, Jr., State's Attorney of Stark County, Illinois; C. E. McNemar, State's Attorney of Peoria County, Illinois; Vincent S. Lumley, State's Attorney of McHenry County, Illinois; Edmund P. Nischwitz, State's Attorney of Mason County, Illinois; C. F. Mortimer, State's Attorney of Sangamon County, Illinois; Victor
1417 H. Hemphill, State's Attorney of Macoupin County, Illinois; William Johnson, State's Attorney of Winnebago County, Illinois; P. H. O'Donnell, State's Attorney of Boone County, Illinois; Charles H. Green, State's Attorney of Stephenson County, Illinois; Henry Jacobs, State's Attorney of Marshall County, Illinois; E. E. Black, State's Attorney of Tazewell County, Illinois; Henry E. Pond, State's Attorney of Menard County, Illinois; Joseph H. Streuber, State's Attorney of Madison County, Illinois; Harry C. Tear, State's Attorney of Jo Daviess County, Illinois; Lowell B. Smith, State's Attorney of De Kalb County, Illinois; Harry Edwards, State's Attorney of Lee County, Illinois; William J. Emerson, State's Attorney of Ogle County, Illinois; and J. J. Ludens, State's Attorney of White-

side County, Illinois, defendants, and thereby commanding them, and each of them, on a day certain therein to be named, to be and appear before this Honorable Court, then and there to answer (but not under oath, answer under oath being hereby expressly waived), all and singular the premises, and to perform and abide by such order, direction or decree as may be made in the premises, and that on final hearing hereof said order of injunction may be made perpetual, and for such other and further relief as to your Honors may seem meet.

And the plaintiff will ever pray.

CHICAGO AND NORTHWESTERN RAILWAY COMPANY,
By R. H. AISHTON, *President.*

C. C. WRIGHT,
ROBERT H. WIDDICOMBY,
Solicitors.

1418 STATE OF ILLINOIS.
County of Cook, ss:

R. H. Aishton, being duly sworn, on oath says that he is President of the plaintiff, Chicago and North Western Railway Company, and as such is authorized to make this affidavit in its behalf; that he has read the above and foregoing bill of complaint and is familiar with the facts therein stated, and that all of said facts are true, except those therein stated to be on information and belief, and as to the facts so stated he believes them to be true.

R. H. AISHTON.

Subscribed and sworn to before me this 23rd day of December, 1916.

MARGARET C. CARMODY,
Notary Public.

[SEAL]

(Here follow Exhibits A, B, C, and D, the same as set out in the Bill in case No. 753 and not copied here.)

(Endorsed:) Filed Dec. 26, 1916. T. C. MacMillan, Clerk.

1419 And on to-wit, the tenth day of January, 1917, came the plaintiff in said entitled cause by its solicitors, and by leave of court first had and obtained, filed in the clerk's office of said Court, its certain Supplemental Bill of Complaint, in words and figures following to-wit:

1420 In the District Court of the United States, Northern District of Illinois, Eastern Division.

In Equity. No. 801.

CHICAGO AND NORTHWESTERN RAILWAY COMPANY, Plaintiff,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, and WILLIAM L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw and Frank H. Funk, as Members of and Constituting the State Public Utilities Commission of Illinois; Edward J. Brundage, Attorney General of Illinois; and Maclay Hoyne, State's Attorney of Cook County, Ill.; Charles W. Hadley, State's Attorney of Du Page County, Ill.; Charles L. Abbott, State's Attorney of Kane County, Ill.; James G. Welch, State's Attorney of Lake County, Ill.; Geo. S. Wiley, State's Attorney of La Salle County, Ill.; Josef Skinner, State's Attorney of Bureau County, Ill.; J. W. Fling, Jr., State's Attorney of Stark County, Ill.; C. E. McNemar, State's Attorney of Peoria County, Ill.; Vincent S. Lumley, State's Attorney of McHenry County, Ill.; Edmund P. Nischwitz, State's Attorney of Mason County, Ill.; C. F. Mortimer, State's Attorney of Sangamon County, Ill.; Victor H. Hemphill, State's Attorney of Macoupin County, Ill.; William Johnson, State's Attorney of Winnebago County, Ill.; P. H. O'Donnell, State's Attorney of Boone County, Ill.; Charles H. Green, State's Attorney of Stephenson County, Ill.; Henry Jacobs, State's Attorney of Marshall County, Ill.; E. E. Black, State's Attorney of Tazewell County, Ill.; Henry E. Pond, State's Attorney of Menard County, Ill.; Joseph H. Streuber, State's Attorney of Madison County, Ill.; Harry C. Tear, State's Attorney of Jo Daviess County, Ill.; Lowell B. Smith, State's Attorney of De Kalb County, Ill.; Harry Edwards, State's Attorney of Lee County, Ill.; William J. Emerson, State's Attorney of Ogle County, Ill., and J. J. Ludens, State's Attorney of Whiteside County, Ill., Defendants.

Supplemental Bill of Complaint.

To the Judges of the District Court of the United States in and for the Northern District of Illinois, Eastern Division:

Now comes the above named plaintiff and by leave of court had files this its supplemental bill of complaint, and says:

1421 First. That on, to-wit, the 26th day of December, 1916, it duly filed its original bill of complaint in this honorable court against the State Public Utilities Commission of Illinois, William L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw and Frank H. Funk, as members of and constituting the State Public Utilities Commission of Illinois; Patrick J. Lucey, Attorney General of Illinois; Maclay Hoyne, State's Attorney of Cook

County, Illinois; Charles W. Hadley, State's Attorney of Du Page County, Illinois; Charles L. Abbott, State's Attorney of Kane County, Illinois; James G. Welch, State's Attorney of Lake County, Illinois; Geo. S. Wiley, State's Attorney of La Salle County, Illinois; Josef Skinner, State's Attorney of Bureau County, Illinois; J. W. Fling, Jr., State's Attorney of Stark County, Illinois; C. E. McNemar, State's Attorney of Peoria County, Illinois; Vincent S. Lumley, State's Attorney of McHenry County, Illinois; Edmund P. Nischwitz, State's Attorney of Mason County, Illinois; C. F. Mortimer, State's Attorney of Sangamon County, Illinois; Victor H. Hemphill, State's Attorney of Macoupin County, Illinois; William Johnson, State's Attorney of Winnebago County, Illinois; P. H. O'Donnell, State's Attorney of Boone County, Illinois; Charles H. Green, State's Attorney of Stephenson County, Illinois; Henry Jacobs, State's Attorney of Marshall County, Illinois; E. E. Black, State's Attorney of Tazewell County, Illinois; Henry E. Pond, State's Attorney of Menard County, Illinois; Joseph H. Streuber, State's Attorney of Madison County, Illinois; Harry C. Tear, State's Attorney of Jo Daviess County, Illinois; Lowell B. Smith, State's Attorney of De Kalb County, Illinois; Harry Edwards, State's Attorney of Lee County, Illinois; William J. Emerson, State's Attorney of Ogle County, Illinois, and J. J. Ludens, State's Attorney of Whiteside County, Illinois, in which the plaintiff prayed for certain relief, the particulars of which are set forth in full in the said original bill filed in the office of the Clerk of this Court on the said 26th day of December, 1916, reference to which is hereby made as though the same were set forth herein in full.

1422 Second. The plaintiff further shows to your Honors that the above named defendants were duly served with notice in said suit and that the defendants State Public Utilities Commission of Illinois and William L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw and Frank H. Funk, as members of and constituting the State Public Utilities Commission of Illinois; Patrick J. Lucey, Attorney General of Illinois; Maclay Hoyne, State's Attorney of Cook County, Illinois, and other defendants, as aforesaid, have made answer to said bill.

Third. The plaintiff further avers that since the filing of the original bill of complaint herein the defendant Patrick J. Lucey, Attorney General of Illinois, has been succeeded in office by Edward J. Brundage, who is a citizen of the State of Illinois, and a resident of Chicago, in the Northern District of Illinois, Eastern Division, and who has been duly elected, qualified, and is now acting as Attorney General of the State of Illinois.

Wherefore, as it is without adequate remedy at law for its protection in said matter, plaintiff prays:

1. That the said Edward J. Brundage, who is hereby made party defendant to this bill, may be required to make full and true answer to the same, and to the original and supplemental bill herein (but not under oath, answer under oath being hereby expressly waived), and that the plaintiffs may have the full benefits of the said suit and proceedings therein against the said Edward J. Brundage, Attorney

General of the State of Illinois, and may have the same relief against him as the plaintiff might or could have had against said Patrick J. Lucey, Attorney General of the State of Illinois in case he had not been succeeded in office as aforesaid.

2. That the said State Public Utilities Commission of Illinois, William L. O'Connell, Owen P. Thompson, Richard Yates, Walter A. Shaw and Frank H. Funk, as members of and constituting the State Public Utilities Commission of Illinois; Maclay Hoyne,
1423 State's Attorney of Cook County, Illinois, and other defendants, as aforesaid, may be required to make full and true answer to this supplemental bill of complaint (but not under oath, answer under oath being herein expressly waived).

3. That the plaintiff may have the relief hereinabove prayed in the original bill of complaint filed herein on the 26th day of December, 1916, reference to which is hereby made the same as though set forth herein in full, and the prayer for relief in which said original bill is hereby reiterated herein in full, and such other and further relief in the premises as to your Honors may seem meet.

The plaintiff prays not only a writ of injunction conformable to the prayer, but also that a subpœna of the United States of America issue out of and under the seal of this Honorable Court, directed to the defendant Edward J. Brundage, Attorney General of Illinois, thereby commanding him on a day certain therein to be named, to be and appear before this Honorable Court then and there to answer (but not under oath, answer under oath being hereby expressly waived) all and singular the premises, and to perform and abide by such order, direction and decree as may be made in the premises, and that on final hearing said order of injunction may be made perpetual, and for such other and further relief as to your Honors may seem meet.

CHICAGO AND NORTH WESTERN
RAILWAY COMPANY,
By H. R. McCULLOUGH.

C. C. WRIGHT,
ROBERT H. WIDDICOMBE,
Solicitors.

1423*a* STATE OF ILLINOIS,
County of Cook, ss:

H. R. McCullough, being duly sworn, on oath deposes and says that he is the Vice President of the plaintiff, Chicago and North Western Railway Company, and as such is authorized to make this affidavit in this behalf; that he has read the above and foregoing supplemental bill of complaint and is familiar with the facts therein stated, and that all of said facts are true except those therein stated to be on information and belief, and as to the facts so stated, he believes them to be true.

H. R. McCULLOUGH.

Subscribed and sworn to before me this 9th day of January, 1917.
[SEAL] MARGARET C. CHARMODY,
Notary Public.

[Endorsed:] Filed Jan. 10, 1917. T. C. MacMillan, Clerk.

1424 And on to-wit: the eleventh day of January, 1917, came the defendants in said entitled cause, by their solicitors, and filed in the clerk's office of said Court, their certain Answer, in words and figures following to-wit:

1425 In the District Court of the United States, Northern District of Illinois, Eastern Division.

In Equity. No. —.

CHICAGO AND NORTHWESTERN RAILWAY COMPANY, Plaintiff,

vs.

STATE UTILITIES COMMISSION OF ILLINOIS et al., Defendants.

Answer of the Defendants to the Bill of Complaint and Supplemental Bill.

These defendants answer said bill of complaint as follows:

1. These defendants admit the allegations of the first paragraph of the bill of complaint, in reference to the names, citizenship, residence and official capacity of the parties, and the incorporation and business of the plaintiff railroad; and they admit that the plaintiff railroad is engaged as a common carrier in the transportation of passengers, as alleged.

2. These defendants admit that this case involves a question which, under the allegations and claims made in the bill, may be considered as arising under the Constitution and laws of the United States and under the Act of Congress of February 4*m*1887, entitled "An Act to regulate commerce," as amended; and they admit

1426 that the action is of a civil nature and that the amount involved is in excess of $3,000, exclusive of interest and costs. But these defendants deny that the passenger fares which are sought to be put in force, in so far as they relate to intrastate travel within the State of Illinois and exceed the maximum of two cents a mile fixed by the statute of that State, are reasonable and just, or that the Interstate Commerce commission, in the full exercise of rightful jurisdiction, has held such fares to be reasonable and just; and they deny that the Interstate Commerce Commission has any power or jurisdiction to fix the fares to be charged for the carriage of passengers in intrastate travel within the State of Illinois, or to impose such fares upon the people of the State of Illinois, or to authorize or order the carriers to do so.

3. These defendants admit that for some years prior to July 1,

1907, the plaintiff generally charged and collected for the transportation of passengers upon said railroad, between points in said State, fares upon the basis of 3 cents per mile for adult passengers and 1½ cents per mile for passengers under 12 years of age. They admit the passage by the General Assembly of the State of Illinois of an Act entitled, "An Act to establish and regulate the maximum rate of charges for the transportation of passengers by corporations or companies operating or controlling railroads in part or in whole in this State, and to provide penalties for the violation of the provisions thereof, and repealing all Acts and parts of Acts in conflict herewith," which was approved by the Governor on May 27, 1907, and became effective July 1, 1907, and is sometimes known
1427 and described as the "Maximum Rate of Charges" law; and these defendants say that the first section of said Act, as originally enacted, reads as follows:

"Section 1. Be it enacted by the People of the State of Illinois, represented in the General Assembly: That it shall hereafter be unlawful for any corporation or company engaged in the carriage of passengers upon any railroad or railroads between points in this State to charge in excess of 2 cents per mile for the carriage of adult passengers, where any passenger has purchased a ticket entitling him to carriage or in excess of one cent per mile for the carriage of a passenger under 12 years of age, where such passenger has purchased a ticket entitling him to carriage; Provided, that the charge in no case shall be less than 5 cents, and in determining the charge, fractions of less than one-half mile shall be disregarded and all other fractions counted as one mile. If any passenger shall have failed to purchase a ticket entitling him to carriage, a rate of 3 cents per mile may be charged and collected."

These defendants further say that the first section of said Act as originally enacted remained in force until it was amended by an Act of the General Assembly of the State of Illinois, approved June 27, 1913, in force July 1, 1913, whereby the following clause was added thereto:

"and if any passenger under 12 years of age shall have failed to purchase a ticket entitling him to carriage, a rate of 1½ cents per mile may be charged and collected;"

and that the first section of said Act as thus amended has since remained and is now in full force and effect.

These defendants further say that the second section of said Act, as enacted in 1907, is still in force and reads as follows:

"Section 2. For any violation of the provisions of this Act by any such corporation or company, its agents or employes, such corporation or company shall forfeit and pay to the State of Illinois a penalty of not less than twenty-five nor more than one hundred dollars for every such violation, to be recovered by suit brought in the name of the State of Illinois by the Attorney General of
1428 the State, in any court of competent jurisdiction in any county into or through which said corporation or company

runs or passes, or by the State's attorney of any county through which said corporation or company runs or passes. Where such penalty is recovered in a suit brought by a State's attorney, as provided by this Act, there shall be recovered, in addition thereto, the sum of ten dollars as compensation for said prosecuting attorney."

These defendants admit that the plaintiff, in obedience to said statute, did put in force and since July 1, 1907, has generally charged and collected on intrastate travel in Illinois the passenger fares provided in said statute.

4. These defendants are not advised as to the fares charged and collected from time to time by said plaintiff in connection with other railroads for travel between points on plaintiffs' line in Illinois and St. Louis or Keokuk, nor whether said plaintiff has ever sold tickets or collected charges for transportation from points on its line in Illinois to St. Louis or Keokuk; but these defendants say that the plaintiff's railroad and trains do not reach St. Louis or Keokuk; not East St. Louis, Madison or Granite City; and that said railroad is not one of the reasonably direct lines lying in the territory intermediate to Chicago at the north and St. Louis and Keokuk on the south and southwest;

These defendants further say that the evidence in the said proceeding before the Interstate Commerce Commission does not show, and the reports and orders of the Interstate Commerce Commission do not find, that the said plaintiff has been guilty of any unjust discrimination against St. Louis; and further say the lines of plaintiff's railroad in Illinois are remote from St. Louis and Keokuk and that no undue or unreasonable prejudice or disadvantage to St. Louis or Keokuk can arise by reason of the maintenance of lower fares between points on the lines of the plaintiff in Illinois than are charged by other railroads for transportation to or from St. Louis or Keokuk.

1429 5. These defendants admit that on the 14th day of June, 1915, the Business Men's League of St. Louis filed its complaint with the Interstate Commerce Commission against certain railroads, in the proceeding entitled, "Business Men's League of St. Louis v. The Atchison, Topeka & Santa Fe Railway Company, et al.," Docket No. 8083 of the Interstate Commerce Commission; and these defendants say that the defendants named in said complaint included many, but not all, of the railroads engaged in the common carriage of passengers within the State of Illinois; and that the said complaint of the Business Men's League of St. Louis charged the defendant railroads with unjust discrimination against St. Louis in the matter of passenger fares and freight rates between St. Louis and Illinois points, as compared with passenger fares and freight rates between points within Illinois; but these defendants say that the present plaintiff, Chicago and North Western Railway Company, was not named as a defendant in said complaint, and was not a party to said proceeding until made so by an order entered December 4, 1916, as hereinafter stated.

These defendants deny that the plaintiff ever answered said complaint, but say that the carriers who were named as defendants in

said complaint answered said complaint, formally denying the unjust discrimination charged, and that the Chicago Association of Commerce, the State Public Utilities Commission of Illinois, the East Side Manufacturers' Association, the Qeokuk Industrial Association, and the Attorney General, on behalf of the State of Illinois and the People of the State of Illinois, intervened in said proceeding, and set forth, among other things, their respective claims and objections, in general as briefly (but not fully) stated in the bill of complaint.

1430 And these defendants, upon information and belief, charge that the said proceeding before the Interstate Commerce Commission was not begun in good faith for the purpose of removing an unjust discrimination against St. Louis, but was in fact begun by the complainant therein at the instance of the nominal defendants thereto, or some of them, who were charged with the unjust discrimination complained of, and that the Business Men's League of St. Louis was merely their instrument in starting a proceeding instigated by the carriers themselves and designed by them to bring about an advance of passenger fares and freight rates in Illinois, for their own benefit.

6. These defendants admit that said complaint was heard by the Interstate Commerce Commission, and that the complainant, the defendants (but not the plaintiff herein) and the interveners appeared at said hearing and offered evidence, filed briefs and participated in the oral argument; and that thereafter, on the 12th day of July, 1916, the Interstate Commerce Commission filed its report and issued its order, and that a copy of said report and order is attached as "Exhibit A" to the bill of complaint. And these defendants say that the participation as aforesaid of the Attorney General of Illinois and of the State Public Utilities Commission of Illinois in said proceedings was proper and in accordance with the rule of comity which applies to the relations between the State and National Governments; but they deny that such participation makes the finding or order of the Interstate Commerce Commission res judicata, or binds the State of Illinois in any matter relating to the validity or enforcement of its own laws.

1431 7. These defendants admit that on September 6, 1916, the Interstate Commerce Commission made its order (a copy of which is "Exhibit B" to the bill of complaint), and thereby postponed the effective date of the order of July 12, 1916, until the 16th day of November, 1916.

8. These defendants admit that on October 11, 1916, the Interstate Commerce Commission made its order (a copy of which is "Exhibit c" to the bill of complaint), and thereby postponed the effective date of its order of July 12, 1916, until the further order of that commission.

9. These defendants admit that on the 17th day of October, 1916, the Interstate Commerce Commission made its supplemental report and order, a copy of which is attached as "Exhibit D" to the bill of complaint.

These defendants say that the orders of September 6, 1916, and

October 11, 1916, and the supplemental report and order of October 17, 1916, were made without previous notice to these defendants (interveners in that proceeding), and without any further hearing after the making of the original report and order of July 12, 1916; and these defendants are not advised whether said supplemental report and order made by the Interstate Commerce Commission on October 17, 1916, were made by said commission on its own initiative or on an ex parte application by the complainant in that proceeding or by the defendant carriers; but these defendants say that the said order of October 17, 1916, is not based upon the original complaint, but goes beyond the matters therein complained of and the relief therein prayed, and that the Interstate Commerce Commission, after the entry of its order of July 12, 1916, was without jurisdiction or power in that proceeding to make a supplemental report and
1432 to enter a further order without notice to these defendants as interveners therein and without an opportunity to them to be heard, and by such report and order to extend and enlarge the relief afforded both beyond the scope of its original order and beyond the scope of the complaint upon which the proceeding was based. And these defendants deny that they are in any way bound by the conclusions or directions contained in said supplemental report or order.

These defendants deny that the Chicago and North Western Railway Company was a party to said proceeding before the Interstate Commerce Commission at the time the said orders were entered or that it was bound to comply with said orders; but these defendants say that after the entry of the said order of October 17, 1916, and on or about the 13th day of November, 1916, the Business Men's League of St. Louis filed its petition in said proceeding praying for an order making the Chicago and North Western Railway Company a party to said proceeding; and these defendants charged upon information and belief that said application was not made for the purpose of remedying any grievance of St. Louis or of the Business Men's League of St. Louis, but was made at the instance and request of said Chicago and North Western Railway Company, as a means and for the purpose of enabling it to advance its passenger fares in Illinois; and these defendants say that the Chicago and North Western Railway Company consented to the granting of said petition; that on the 13th day of November, 1916, the Interstate Commerce Commission entered a rule that all parties to said proceeding appear before Commissioner Daniels in Chicago on November 20, 1916,
1433 to show cause why the Chicago and North Western Railway Company should not be made a party defendant to said proceeding and have entered against it all the orders thitherto entered against the other parties defendant; that in response to said rule the State of Illinois and the State Public Utilities Commission of Illinois, by the Attorney General of said State, on November 20, 1916, presented to said Commissioner Daniels their objections to the granting of said application and that a copy of such objections is hereto attached marked "Exhibit 1."

These defendants admit that afterwards and on the 4th day of

December, 1916, the Interstate Commerce Commission made its order, a copy of which is "Exhibit E" to the bill of complaint, and thereby ordered "that the Chicago and North Western Railway Company be, and it is hereby, made a party defendant to the above entitled case, and that all orders previously issued on this proceeding be made to run against the Chicago and Northwestern Railway Company as of January 25, 1917."

10. These defendants deny that said reports and orders (Exhibits A, B, C, D and E to plaintiff's bill) were served upon the plaintiff at any time prior to December 4, 1916; they admit that the plaintiff has prepared tariffs of passenger fares for application to the transportation of passengers between all points upon its lines in the State of Illinois, upon the basis of 2.4c per mile, and had filed such tariffs with the State Public Utilities Commission of Illinois, but they deny that said tariffs were prepared or filed in obedience to the said order of October 17, 1916, or the said order of December 4, 1916, or were authorized by said orders or by the said reports of July 12,
1434 1916, and October 17, 1916. On the contrary, these defendants said that said tariffs were prepared and were filed with the State Public Utilities Commission of Illinois in anticipation of the said order of December 4, 1916, and prior to the entry of said order, and at a time when the said plaintiff was not a party to the said proceeding before the Interstate Commerce Commission nor in any way bound by the orders in that proceeding.

11. These defendants admit that the plaintiff, as a common carrier of passengers in Illinois, is subject to the provisions of the Act of the General Assembly of the State of Illinois, entitled "An Act to provide for the regulation of public utilities," approved June 30, 1913, and in force January 1, 1914; that said Act is known as the Public Utilities Law, and is part of chapter 111*a* of the Revised Statutes of Illinois, 1915-1916; and that said Act contains provisions of the general purport stated in the eleventh paragraph of plaintiff's bill of complaint; but these defendants refer to the Act itself for the full intent and meaning thereof.

These defendants say that by the terms of section 79 of said Public Utilities Law it is made the duty of the State Public Utilities Commission of Illinois to see that the provisions of the Constitution and statutes of said State affecting public utilities, the enforcement of which is not specifically vested in some other officer or tribunal, are enforced and obeyed, and to see that violations thereof are promptly prosecuted and penalties due the State therefor recovered and collected; they say further that the Attorney General is the chief law officer of the State; and that the Attorney General
1435 throughout the State and the State's attorneys in their respective counties are authorized by law to sue for and recover the penalties provided for violation of the Maximum Rate of Charges Law; but these defendants deny that they have threatened the plaintiff, its officers, agents or employes, with prosecutions or suits, as alleged in said bill of complaint.

12. These defendants admit that the Attorney General and the State's attorneys will begin such prosecutions as may be required by

their lawful duties under the Constitution and laws of the State of Illinois, and within the Constitution of the United States, in case the plaintiff violates the Maximum Rate of Charges Law or the Public Utilities Law, or any other of the laws of the State of Illinois; and these defendants deny that said laws, as to the rights of the plaintiff herein, are wholly unconstitutional or void, or that the plaintiff herein or its employees will be thereby subjected to innumerable, enormous and excessive fines, penalties or imprisonments, or that they will be intimidated or prevented from testing in good faith in this Court the validity of said laws.

13. These defendants deny that the State Public Utilities Commission of Illinois has refused or will refuse to receive or file any tariffs or schedules of passenger fares presented to said commission by the plaintiffs; on the contrary, they say that prior to the filing of the bill of complaint herein the proposed new passenger tariffs of the plaintiff had been received and filed, and that on the 27th day of December, 1916, the proposed tariffs were suspended for a period of 120 days by the State Public Utilities Commission of Illinois, in accordance with its duties under the law.

1436 14. These defendants, while they admit that any violation by the plaintiff of the Maximum Rate of Charges Law may result in suits against the plaintiff for the penalties thereby incurred, deny that the plaintiff will be thereby subjected to vexations and excessive penalties, or that it will be thereby deprived of its right to collect just, reasonable and non-discriminatory fares, or that it will thereby suffer great and irreparable injury.

These defendants deny the conclusions of the plaintiff and particularly—

(1) They deny that the said Maximum Rate of Charges Law is null and void, because in conflict with the said report of the Interstate Commerce Commission of July 12, 1916, and the said supplemental report and order of October 17, 1916, or for any other reason; they deny that said Maximum Rate of Charges Law is a burden upon or a direct interference with interstate commerce; and they deny that said law is in violation of paragraph third of section 8 of article 1 of the Constitution of the United States, or in violation of any of the provisions of the Constitution of the United States, or that it is in violation of the Act to regulate commerce, or that it has been so found to be by the said reports and order of the Interstate Commerce Commission.

(2) They deny that section 2 of the Maximum Rate of Charges Law and sections 76 and 77 of the Public Utilities Law of Illinois, or any of said sections, are void, or that they deny to the plaintiff the equal protection of the laws or deprive it of its property without due process of law, or that they are in any way violative of the Constitution of the United States or of the Fourteenth Amendment thereof.

1437 These defendants further say that they are without knowledge as to the truth of any averments of said bill of complaint which are not hereby specifically admitted, denied or explained.

These defendants further say that the order of the Interstate Com-

merce Commission made on October 17, 1916, in so far as its terms may be construed to authorize or require the carriers to establish and put in force, or to maintain and apply to the transportation of passengers in intrastate travel between points in the State of Illinois, fares upon a basis of 2.4 cents per mile, or upon any basis in excess of 2 cents per mile, is void, because—

(*a*) It exceeds the power of the Interstate Commerce Commission, as limited by section 1 of the Act to regulate commerce, which provides that the provisions of that Act shall not apply to the transportation of passengers wholly within one State.

(*b*) It conflicts with the said Maximum Rate of Charges Law of Illinois, which is a valid exercise of the police power of the State of Illinois in a matter the control of which has not been surrendered to the federal government.

(*c*) It conflicts with the principle declared by the Supreme Court of the United States, that the reasonableness of intrastate rates is to be determined by considering the intrastate business separately; and in violation of that principle, it attempts to establish passenger fares in Illinois by considering as the sole basis therefor the passenger business between St. Louis and Illinois points.

1438 (*d*) It attempts to limit the power of the State of Illinois to fix reasonable fares for its internal passenger traffic, by the mere action of the carriers in laying an interstate fare across the State's border to St. Louis.

(*e*) It seizes upon a disparity between State and interstate fares, brought about by the voluntary action of the carriers themselves in advancing the interstate fares between St. Louis and Illinois points, and finds therefrom an unjust discrimination, which it makes the basis, not for restoring the interstate fares which have been unlawfully advanced, but for increasing the intrastate fares beyond the maximum lawfully fixed by State authority.

(*f*) The said order of the Interstate Commerce Commission, as construed and applied by the plaintiff and other railroads, creates an undue and unreasonable preference and advantage in favor of St. Louis and against Chicago and other Illinois cities, in that it results in a fare of 2.4 cents a mile for intrastate travel between all points in Illinois and for interstate travel between all points in Illinois and all points in Missouri, whereas the fare for intrastate travel between St. Louis and other Missouri points and between all points in Missouri is left at 2 cents a mile.

(*g*) The proceeding begun before the Interstate Commerce Commission, on the complaint of the Business Men's League of St. Louis, was not brought in good faith to remove an unjust discrimination against interstate commerce, but was instigated by the carriers themselves, and was designed by them to subject every passenger fare and freight rate for intrastate transportation in Illinois to the control of the Interstate Commerce Commission, in violation of the Act to regulate commerce, and so as to destroy utterly the power

1439 of regulation in that regard belonging to the State of Illinois.

(*h*) There was no substantial evidence in the proceedings before the Interstate Commerce Commission to support its order of

October 17, 1916, or to sustain its report or supplemental report or the findings upon which its said order is based.

(*i*) There was no substantial evidence in said proceeding on which to base the conclusion that the present interstate passenger fares between St. Louis and Keokuk, on the one hand, and points in Illinois, on the other, are just and reasonable, in so far as they are not in excess of 2.4 cents per mile, plus a reasonable bridge toll for crossing the Mississippi River, nor for the finding that such fares are just and reasonable maximum fares, for the purpose of ending the supposed discrimination found in the original report of the commission.

(j) The Interstate Commerce Commission has not found, and there was no substantial evidence before the said commission to support a finding, that the maintenance in Illinois of fares upon a basis lower than the basis for contemporaneous fares between St. Louis and Illinois points has lessened or materially affected the volume of travel between St. Louis and Illinois points or worked any substantial injury to St. Louis or to the Business Men's League of St. Louis; nor was there any such evidence or finding with respect to Keokuk.

(*k*) The bill of complaint herein is one added to a series of bills of like character, filed severally on behalf of the railroads
1440 which were defendants in the said proceeding before the Interstate Commerce Commission; and the findings of the Interstate Commerce Commission as to the existence and occasion of unjust discrimination, undue and unreasonable preferences and advantages, and undue and unreasonable prejudice and disadvantages, as contained in the said report and supplemental report, are conclusions reached by considering the defendant carriers in that proceeding as a unit, and not as separate railroads, whose relations, if any, to the matters complained of are distinct and dissimilar; and there is no substantial evidence in said proceeding to support the said conclusions as to all of said railroads or as to the railroad of the plaintiff.

(*l*) The said report and supplemental report of the Interstate Commerce Commission, and its order of October 17, 1916, are so vague, indefinite, general and uncertain in the findings and directions thereof, that it is not possible to determine therefrom which of said carriers are deemed to be guilty of the matters complained of, nor to what intrastate fares the order is intended to apply.

(*m*) The evidence on oenalf of the complainant itself showed that the commercial and business interests which it represented were opposed to any increase in the intrastate fares in Illinois; the conclusion is inevitable that there was no unjust discrimination or undue prejudice or disadvantage to St. Louis, and the findings of the Interstate Commerce Commission are contrary to the evidence and its said order is arbitrary and unjust.

(*n*) The authority of the Interstate Commerce Commission has been exercised in such an unreasonable and arbitrary man-
1441 ner that its order, without necessity or justification, obstructs and interferes with the State of Illinois in the due exercise of the lawful powers of said state.

(*o*) The said order, as interpreted and attempted to be applied by the plaintiff and other carriers, is unreasonable in that it attempts to make the fares from Illinois points to a single point across the border of the state the controlling factor in fixing intrastate fares throughout the state of Illinois, so as to defeat the two cent maximum fare law of Illinois, regardless of the facts that intrastate fares based upon a maximum of two cents a mile are in force, not only in Illinois, but also in Ohio, Missouri, Indiana, Michigan, Wisconsin, Oklahoma, Minnesota, Iowa, Nebraska and Kansas, and that such intrastate fares are in effect upon the same and other railroads, so far as they operate in the states named, and that the density of travel, the population per square mile, and the population per mile of railroad in Illinois exceed those of any other of the states named except Ohio.

(*p*) The bases upon which the conclusions and findings of the Interstate Commerce Commission were reached are fundamentally wrong and contrary to law.

(*q*) The said order of the Interstate Commerce Commission made on October 17, 1916, insofar as it may be held to authorize the said passenger tariffs subsequently filed by said plaintiff with the State Public Utilities Commission of Illinois was wholly unsustained by proof, before the Interstate Commerce Commission.

(*r*) The findings, conclusions and order of the Interstate Commerce Commission are not applicable to the plaintiff in this case, and if applied to the said plaintiff, are wholly unsustained by proof in the said proceeding before the Interstate Commerce Commission.

These defendants further say that the order of said Interstate Commerce Commission entered on December 4, 1916, making the Chicago and Northwestern Railway Company a party to said proceeding and the previous orders therein, is void upon the grounds stated in the said "exhibit 1" to this answer; and also because it is not supported by any evidence in that proceeding.

These defendants further say that the tariffs of the plaintiff, whereby is seeks to put into effect fares for the carriage of passengers in intrastate travel in Illinois, upon the basis of 2 4/10
1442 cents per mile, or upon any basis in excess of 2 cents per mile, are unlawful, for the following reasons:

(*a*) The proposed advances in passenger fares in Illinois are based upon the orders of the Interstate Commerce Commission, which are void, for the reasons above stated.

(*b*) The proposed fares exceed the maximum prescribed by the State of Illinois in the said Maximum Rate of Charges Law.

(*c*) The existing passenger fares charged on intrastate travel in Illinois are just and reasonable fares.

(*d*) The existing passenger fares charged on intrastate travel in Illinois are not unjustly and discriminatory, as compared with the just and reasonable fares for travel between St. Louis and Illinois points.

(*e*) The proposed tariffs increase the fares for travel between points in Illinois remote from Chicago and from St. Louis, which

are not involved in the claims of unjust discrimination made in the complaint of the Business Men's League of St. Louis.

(*f*) The proposed tariffs carry advances in fares which are not involved in the discrimination found to exist in the report of the Interstate Commerce Commission.

(*g*) The proposed tariffs in many instances contain fares from points in Illinois to St. Louis and East St. Louis (or to Keokuk) by roundabout and impracticable routes, which do not and
1443 will not carry the travel, and such fares exceed the fares from the same points to St. Louis and East St. Louis *and East St. Louis* (or to Keokuk) by other and more direct lines on which travel moves; and these defendants charge that such papers are not made in good faith, but are inserted in said tariffs for the purpose of enabling the plaintiff to advance beyond 2 cents a mile the local intrastate rate between intermediate points on these roundabout routes, and to claim in justification that such advances are madein obedience to the order of the Interstate Commerce Commission.

(*h*) The fares proposed in said tariffs are unjust and unreasonable and in some instances exceed even the basis of 2.4 cents a mile.

These defendants further say that the order of the Interstate Commerce Commission entered on October 17, 1916, is so vague, indefinite, general and uncertain that it cannot be enforced against the plaintiff or the other parties to said proceeding; that the plaintifffff is under no compulsion to comply with said order and cannot be subjected to any prosecution or penalty for failure to do so.

These defendants further say that it is within the power of the plaintiff to comply with the said order of the Interstate Commerce Commission without increasing any passenger fare for intrastate travel in Illinois.

1444 These defendants further say that the Interstate Commerce Commissionn is a necessary and indispensable party to this proceeding, and that the Court cannot proceed to a final decree herein without the presence of the Interstate Commerce Commission as a party.

These defendants, therefore, pray that the bill of complaint herein be dismissed for want of equity; that this answer be taken as the cross-bill or counterclaim of these defendants against the said plaintiff and the United States of America and the Interstate Commerce Commission, and that they be required, within the time fixed by law and the rules and practice of this Court, to answer the same, but not under oath, answer under oath being waived.

These defendants further pray that the said order of the Interstate Commerce Commission entered on October 17, 1916, (except in so far as it vacates the previous order of July 12, 1916), be set aside, annulled, and that pending the final determination of this cause, the said orders be suspended; that upon the final hearing hereof, the parties hereto, other than these answering defendants, may be permanently enjoined and restrained from complying with, enforcing or attempting to enforce the provisions of said orders; and that these

defendants may have such other and further relief in the premises as to the Court shall seem meet.

These defendants further say that since the filing of the bill of complaint, the term of office of Patrick J. Lucey, as Attorney General of the State of Illinois, has expired, and that on the 8th day of January, 1917, he was succeeded by Edward J. Brundage, who is now the duly elected, qualified and acting Attorney General of the State of Illinois.

1445 STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS,
WILLIAM L. O'CONNELL,
OWEN P. THOMPSON,
RICHARD YATES,
WALTER A. SHAW, AND
FRANK H. FUNK,
As Members of and Constituting the State Public Utilities Commission of Illinois;
MACLAY HOYNE,
State's Attorney of Cook County, Illinois,
CHARLES W. HADLEY,
State's Attorney of DuPage County, Illinois,
CHARLES L. ABBOTT,
State's Attorney of Kane County, Illinois,
JAMES G. WELCH,
State's Attorney of Lake County, Illinois,
GEO. S. WILEY,
State's Attorney of La Salle County, Illinois,
JOSEF SKINNER,
State's Attorney of Bureau County, Illinois,
J. W. FLING, Jr.,
State's Attorney of Stark County, Illinois,
C. E. McNEMAR,
State's Attorney of Peoria County, Illinois,
VINCENT S. LUMLEY,
State's Attorney of McHenry County, Illinois,
EDMUND P. NISCHWITZ,
State's Attorney of Mason County, Illinois,
C. F. MORTIMER,
State's Attorney of Sangamon County, Illinois,
VICTOR H. HEMPHILL,
State's Attorney of Macoupin County, Illinois,
WILLIAM JOHNSON,
State's Attorney of Winnebago County, Illinois,
P. H. O'DONNELL,
State's Attorney of Boone County, Illinois,
CHARLES H. GREEN,
State's Attorney of Stephenson County, Illinois,
HENRY JACOBS,
State's Attorney of Marshall County, Illinois,
E. E. BLACK,
State's Attorney of Tazewell County, Illinois,

HENRY E. POND,
State's Attorney of Menard County, Illinois,
JOSEPH H. STREUBER,
State's Attorney of Madison County, Illinois,
HARRY C. TEAR,
State's Attorney of Jo Daviess County, Illinois,
LOWELL B. SMITH,
State's Attorney of DeKalb County, Illinois,
HARRY EDWARDS,
State's Attorney of Lee County, Illinois,
WILLIAM J. EMERSON,
State's Attorney of Ogle County, Illinois,
AND J. J. LUDENS,
State's Attorney of Whiteside County, Illinois,
By EDWARD J. BRUNDAGE,
Attorney General of Illinois.
EDWARD J. BRUNDAGE,
Attorney General of Illinois,
JAMES H. WILKERSON,
Assistant Attorney General.
TIMOTHY P. MULLEN,
Assistant Attorney General.
Solicitors and of Counsel for Defendants.

1446 EXHIBIT I.

Interstate Commerce Commission.

No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS

vs.

ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al.

The State of Illinois and the State Public Utilities Commission of Illinois, who have heretofore intervened in the above entitled proceeding, come now, by Patrick J. Lucey, Attorney General of said State, in response to the order to show cause why the Chicago & Northwestern Railway Company should not be made a party defendant to this proceeding and have entered against it all the orders hitherto entered against the other parties defendant; and thereupon the said interveners show the following:

1. The alleged purpose of the complaint in this proceeding is to remove an unjust discrimination claimed to exist against interstate commerce between St. Louis and points in Illinois; and it does not appear that the Chicago & Northwestern Railway Company is guilty of any unjust discrimination in the premises.

2. It does not appear that the Chicago & Northwestern Railway

Company is a factor in the matters set up as constituting such alleged discrimination.

1447 3. If the Chicago & Northwestern Railway Company was a proper party to this proceeding, no facts are shown which excuse the complainant's omission to make it a defendant in the original complaint or during the period of more than a year since this proceeding was begun and prior to the entry of the orders disposing of the matter of passenger fares involved herein.

4. The proceeding (except in form) is not adverse to the carriers; in reality it is brought in their interest and for the purpose of enabling them to increase their passenger fares within the State of Illinois, beyond the maximum permitted by the laws of that State, and to advance their freight rates within the State of Illinois without regard to the action of the State Public Utilities Commission of Illinois, which by law is charged with the duty of enforcing reasonable freight rates in Illinois on intrastate traffic. The present application shows that counsel for the Chicago & Northwestern Railway Company has been aware of the pendency and purpose of this proceeding since its commencement; and no excuse is shown for its failure to intervene if it considered itself an interested party.

5. An interested carrier ought not to be permitted to speculate upon the outcome of proceedings before this Commission by waiting until a decision is rendered before electing whether to become a party or not. Practice Rule 11 forbids.

6. The Chicago, Burlington & Quincy Railroad Company and other railway companies which are defendants have been represented by counsel throughout this proceeding, and the alleged fact

1448 that the Chicago & Northwestern Railway Company is their competitor in certain territory (which is urged as a reason for the present application) is not a fact of recent origin nor one newly discovered; and there is nothing to excuse the failure of said defendants to bring in the Chicago & Northwestern Railway Company as a party prior to the hearing and partial determination on the case, if they deemed its presence necessary in this proceeding.

7. The railroad of the Chicago & Northwestern Railway Company does not enter St. Louis, and its lines are too remote from the source of complaint to be considered in a proceeding of this character.

8. To order an increase of local passenger fares on the Chicago & Northwestern lines in the northern part of the State of Illinois, for the avowed purpose of removing an alleged discrimination against St. Louis, would be an extraordinary and unwarranted use of the power of the Interstate Commerce Commission in regard to the removal of unjust discrimination.

9. The fares to be charged for railroad travel wholly within the State of Illinois are to be determined with reference to conditions existing within that State, and not with reference to conditions affecting interstate travel between St. Louis and Illinois points; the power to regulate and control such intrastate fares belongs to the State of Illinois, and has been exercised by the passage of a statute now in force which fixes the reasonable maximum fare for the carriage of adult passengers at two cents a mile. There is nothing in

the complaint of the Business Men's League of St. Louis, or in the evidence in this case, which would warrant the Interstate Com-
1449 merce Commission in increasing the passenger fares to be charged by the Chicago & Northwestern Railway Company for intrastate travel on its lines in Illinois, beyond that statutory maximum of two cents a mile.

10. Neither the matters alleged in the complaint nor the facts appearing of record in this case would justify the Interstate Commerce Commission in entering any order disturbing the freight rates charged by the Chicago & Northwestern Railway Company on intrastate traffic in the State of Illinois.

Wherefore these interveners say that the Chicago & Northwestern Railway Company should not be made a party defendant to this proceeding nor have entered against it (or in its favor) all the orders against (or in favor of) the other parties defendant; and that the application of the Business Men's League of St. Louis in that behalf should be denied.

THE STATE OF ILLINOIS AND
THE STATE PUBLIC UTILITIES
COMMISSION OF ILLINOIS,
By P. J. LUCEY,
Attorney General of Illinois.
TIMOTHY F. MULLEN,
Assistant Attorney General.

[Endorsed:] Filed Jan. 11, 1917. T. C. MacMillan, Clerk.

1450 In the District Court of the United States, Northern District of Illinois, Eastern Division.

In Equity. No. 801.

CHICAGO AND NORTHWESTERN RAILWAY COMPANY, Plaintiff,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Defendants.

Reply of Plaintiff to "Answer of the Defendants to the Bill of Complaint and Supplemental Bill."

Now comes the plaintiff, by its solicitors, and for reply to the matters and things set forth in the "Answer of the defendants to the bill of complaint and supplemental bill" as grounds for affirmative relief and which matters and things and the affirmative relief prayed for in said answer are in the nature of and are hereby referred to as a cross bill, says:

1. That this honorable court is without jurisdiction to suspend, set aside, annul or enjoin, in whole or in part said order of the Interstate Commerce Commission of October 17, 1916, referred to and complained of in said cross bill.

The said order was entered in a proceeding before the Interstate Commerce Commission, duly instituted, conducted and concluded under the Act to Regulate Commerce as amended, upon the petition filed with said Commission by the Business Men's League of St. Louis as fully appears by the report of said Commission of July 12, 1916, its order of September 6, 1916, its order of October 11, 1916, and its supplemental report and order of October 17, 1916, all of which are made a part of the plaintiff's original bill and there marked Exhibits "A," "B," "C" and "D," respectively, and which exhibits by reference are likewise made a part of this reply; that the Business Men's League of St. Louis is a corporation duly organized and existing under the laws of the State of Missouri, and has its domicile and residence in the City of St. Louis, and State of Missouri, in the Eastern Division of the Eastern District of Missouri; that in and by an Act of Congress, entitled "An Act making appropriations to supply urgent deficiencies in appropriations for the fiscal year 1913, and for other purposes," approved October 22, 1913, 38 St. L. 219, it is, among other things, provided that:

"The venue of any suit hereafter brought to enforce, suspend, or set aside, in whole or in part any order of the Interstate Commerce Commission shall be in the judicial district wherein is the residence of the party or any of the parties upon whose petition the order was made, except that where the order does not relate to transportation or is not made upon the petition of any party, the venue shall be in the district where the matter complained of in the petition before the Commission arises, * * * "

That there was no petitioner in said proceeding before the Interstate Commerce Commission who resided, or who now resides within the jurisdiction of this court. All of which fully appears in the records in this cause now before this court.

2. The plaintiff denies the allegations in each paragraph in said cross bill to the effect that the Interstate Commerce Commission did not have jurisdiction of the parties and matters involved in said proceeding wherein said orders complained of were entered; on the contrary, the plaintiff alleges that the matters and things complained of by the Business Men's League of St. Louis in its said petition before the Interstate Commerce Commission, and the parties defendant thereto and the parties intervening in said proceeding were and each of them was, within the jurisdiction of the Interstate Commerce Commission, and within the scope of its powers under the Act to Regulate Commerce as amended that that its findings and conclusions of fact made and set forth in its said report, supplemental report and order of October 17, 1916, are and each of them is final and conclusive and that the same were supported by substantial evidence, and that the said proceedings before the Interstate Commerce Commission were in conformity to law.

And plaintiff as to each and all of the averments in said answer, charging, in substance, that the said order of October 17, 1916, is unreasonable, that the fares prescribed thereby are unjust and unreasonable, that the said interstate fares existing prior to said orders did not discriminate as found by said Commission, that the fares charged

on intrastate travel in Illinois are not unjustly discriminatory, and that the fares permitted by said order create an undue and unreasonable preference in favor of St. Louis and against Chicago and other Illinois cities, says that the said Public Utilities Commission of Illinois and the said Attorney General of Illinois, representing said State, became and were parties to said proceeding, and that all such matters were issues before said Commission and determined adversely to the contentions of defendants, and the plaintiff denies that this Court has jurisdiction herein to consider the same.

3. And the plaintiff specifically denies each and every other allegation in said "Answer of the defendants to the bill of complaint and supplemental bill" not in this reply specifically admitted or denied, and the plaintiff prays the same advantage of this reply as if it had moved to dismiss said cross bill on the ground that it does not state a cause of action against the plaintiff.

Wherefore the plaintiff prays that the relief prayed by the defendants be denied and that their cross bill be dismissed.

CHICAGO AND NORTHWESTERN RAILWAY COMPANY,
By C. C. WRIGHT,
ROBERT H. WIDDECOMB,
Its Solicitors.

——— ———,
Of Counsel.

[Endorsed:] Filed Jan. 12, 1917. T. C. MacMillan, Clerk.

1451-1457 [Endorsed:] District Court of the United States, Northern District of Illinois, Eastern Division. ——— ———, Plaintiff, vs. State Public Utilities Commission of Illinois et al., Defendants. Reply of Plantiff to "Answer of the Defendants to the Bill of Complaint and Supplemental Bill. ——— ———, Solicitors for Plaintiff.

1458 In the District Court of the United States, for the Southern District of Illinois, Southern Division.

No. 9431. In Equity.

TRUST COMPANY OF AMERICA

vs.

CHICAGO, PEORIA & ST. LOUIS RAILWAY COMPANY OF ILLINOIS.

Final Decree upon the Intervening Petition of John P. Ramsey and H. M. Merriam, Receivers, against W. H. Stead et al.

This cause came to be heard at this term, on the Intervening petition as amended, of John P. Ramsey and H. M. Merriam, receivers of the Chicago, Peoria & St. Louis Railway Company of Illi-

nois, against W. H. Stead, the Attorney General of the State of Illinois; A. T. Lucas, State's Attorney for Cass County; Walter J. Chapman, State's Attorney for Jersey County; James H. Murphy, State's Attorney for Macoupin County; E. P. Nischwitz, State's Attorney for Mason County; Julian H. Hall, State's Attorney for Menard County; Robert Tilton, State's Attorney for Morgan County; J. H. Gillham, State's Attorney for Madison County; Edmund Burke, State's Attorney for Sangamon County; J. F. Tecklenberg, State's Attorney for St. Clair County; William J. Reardon, State's Attorney for Tazewell County, and Robert Scholes, State's Attorney for Peoria County, Respondents; together with the Exhibits annexed to said Intervening Petition, as amended, and upon the joint answer of the above named respondents; and upon the report of
1459 Walter M. Allen, Master in Chancery, the exceptions of said respondents to said report, and the several orders, papers and proceedings in this cause; and the same was argued by counsel for said Intervening Petitioners and for said respondents; and thereupon, upon, consideration thereof,

It is found, ordered, adjudged and decreed, as follows:

I. That on the First day of July-1909, the complainant, the Trust Company of America, as Trustee, in the above entitled cause, filed its Bill of Complaint in this Court to foreclose a certain mortgage made by the defendant in the above entitled cause, the Chicago, Peoria & St. Louis Railway Company of Illinois.

II. That the said Trust Company of America, is, and at all times mentioned in its said Bill of Complaint was, a Corporation created by and existing under the laws of the State of New York.

III. That the defendant in the above entitled cause, the Chicago, Peoria & St. Louis Railway Company of Illinois, is, and at all times mentioned in the said Bill of Complaint was, a corporation created by and existing under the laws of the State of Illinois, as a railroad corporation, having its principal office for the transaction of its business at the City of Springfield, in said State and in the Southern Division of the Southern District thereof.

IV. That on said First day of July-1909, said Intervening Petitioners, John P. Ramsey and H. M. Merriam, were, by an Order duly entered in the above entitled cause, appointed Receivers of all and singular the railways and property of said Defendant, the Chicago, Peoria & St. Louis Railway Company of Illinois;
1460 that pursuant to said Order, said Intervening Petitioners, as such Receivers, took possession of said railways and property of said defendant on said First day of July-1909, and thence hitherto, have continued the operation of said railways and property as such Receivers.

V. That each and every material allegation of said Intervening Petition, as amended, is true.

VI. That the respondent, W. H. Stead, is the Attorney General for the State of Illinois, and is a citizen, inhabitant and resident of said Southern Division of the Southern District of Illinois, having his principal office in the city of Springfield, in said District.

VII. That A. T. Lucas, is the State's Attorney for the County of

Cass, in the State of Illinois, and is a citizen, inhabitant and resident of the said Southern Division of the Southern District of Illinois, having his principal office in the City of Virginia, in said District.

VIII. That Walter J. Chapman is the State's Attorney for the County of Jersey, in the State of Illinois, and is a citizen, inhabitant and resident of the said Southern Division of the Southern District of Illinois, having his principal office in the City of Jerseyville, in said District.

IX. That James H. Murphy is the State's Attorney for the County of Macoupin, in the State of Illinois, and is a citizen, inhabitant and resident of the said Southern Division of the Southern District of Illinois, having his principal office in the City of Carlinville, in said District.

X. That E. P. Nischwitz is the State's Attorney for the County of Mason, in the State of Illinois, and is a citizen, inhabitant and resident of the said Southern Division of the Southern District of
1461 Illinois, having his principal office in the City of Havana, in said District.

XI. That Julian H. Hall is the State's Attorney for the County of Menard, in the State of Illinois, and is a citizen, inhabitant and resident of the said Southern Division of the Southern District of Illinois, having his principal office in the City of Petersburg, in said District.

XII. That Robert Tilton is the State's Attorney for the County of Morgan, in the State of Illinois, and is a citizen, inhabitant and resident of the said Southern Division of the Southern District of Illinois, having his principal office in the City of Jacksonville, in said District.

XIII. That J. H. Gillham, is the State's Attorney for the County of Madison, in the State of Illinois, and is a citizen, inhabitant and resident of the said Southern Division of the Southern District of Illinois, having his principal office in the City of Edwardsville, in said District.

XIV. That Edmund Burke, is the State's Attorney for the County of Sangamon, in the State of Illinois, and is a citizen, inhabitant and resident of the said Southern Division of the Southern District of Illinois, having his principal office in the City of Springfield, in said District.

XV. That J. F. Tecklenberg, is the State's Attorney for the County of St. Clair, in the State of Illinois, and is a citizen, inhabitant and resident of the said Eastern District of Illinois, having his principal office in the City of Belleville, in said District.

XVI. That William J. Reardon, is the State's Attorney for the County of Tazewell, in the State of Illinois, and is a citizen, inhabitant and resident of the said Northern Division of the Southern District of Illinois, having his principal office in the City of Pekin, in said District.

1462 XVII. That Robert Scholes is State's Attorney for the County of Peoria, in the State of Illinois, and is a citizen, inhabitant and resident of the said Northern Division of the Southern

District of Illinois, having his principal office in the City of Peoria, in said District.

XVIII. That the General Assembly of the State of Illinois, did, at its regular Session in the year 1907, enact the following:

"An Act to establish and regulate the maximum rate of charges for the transportation of passengers by corporations or companies operating or controlling railroads in part or in whole in this State, and to provide penalties for the violation of the provisions thereof, and repealing all Acts and parts of Acts in conflict herewith.

Section I. Be it enacted by the People of the State of Illinois, represented in the General Assembly: That it shall hereafter be unlawful for any corporation or company engaged in the carriage of passengers upon any railroad or railroads between points in this State, to charge in excess of two (2c) cents per mile for the carriage of adult passengers where any passenger has purchased a ticket entitling him to carriage, or in excess of one (1¢) cent per mile for the carriage of a passenger under twelve (12) years of age where such passenger has purchased a ticket entitling him to carriage. Provided, that the charge in no case shall be less than five (5¢) cents, and in determining the charge, fractions of less than one-half (½) mile shall be disregarded and all other fractions counted as one (1) mile. If any passenger shall have failed to purchase a ticket entitling him to carriage, a rate of three (3¢) cents per mile may be charged and collected.

Section II. For any violation of the provisions of this Act, by any such corporation or company, its agents or employe, such corporation or company shall forfeit and pay to the State of Illinois a penalty of not less than twenty-five (25), nor more than one hundred (100) Dollars for every such violation, to be recovered by suit brought in the name of the State of Illinois by the Attorney General of
1463 the State in any court of compe*n*ent (competent) jurisdiction in any county into or through which said corporation or company runs or passes, or by the State's Attorney of any county through which said corporation or company runs or passes. Where such penalty is recovered in a suit brought by a State's Attorney as provided by this Act, there shall be recovered in addition thereto, the sum of Ten (10) Dollars as compensation for said prosecuting Attorney.

Section III. The invalidity of any section of this Act shall not invalidate any other section thereof.

Section IV. All laws in conflict herewith, are hereby repealed".

XIX. That from the First day of July, 1907, until the First day of July, 1909, said Defendant, Chicago, Peoria & St. Louis Railway Company of Illinois, transported passengers over its said lines of railway in strict compliance with the provisions of the said Act of the General Assembly of the State of Illinois; and that from the First day of July, 1909, until the 13th day of October, 1909, the said Intervening Petitioners, as Receivers of said Chicago, Peoria & St. Louis Railway Company of Illinois, continued to transport passengers over said lines of railway in strict compliance with the provisions

of said Act of the General Assembly of the State of Illinois; that during all of said times, passenger trains were operated over said railways with as great a degree of economy as was compatible with the comfort of passengers, safe and efficient service to the public and the maintenance and preservation of said railway property; that during said times, the gross receipts from carrying such passengers, after deducting therefrom the cost of conducting such business,
1464 including operating expenses, maintenance and fixed charges properly pertaining to said business, were not sufficient to leave an adequate and reasonable return upon the value of the property used in and about said business, and do not constitute adequate compensation for the service rendered the public.

XX. That the effect of the operation of said Act of the General Assembly of the State of Illinois is to deprive the Intervening Petitioners and the owners of the railways and property of the Chicago, Peoria & St. Louis Railway Company of Illinois, of a reasonable profit or return upon the value of said property devoted to passenger traffic within the State of Illinois for the service so rendered the public; that as to said Intervening Petitioners and the owners of said railways and property, the provisions of said Act of the General Assembly of the State of Illinois, are unreasonable, unjust, discriminative, confiscatory, in violation of the provisions of Section I of the Fourteenth Amendment to the Constitution of the United States and void.

XXI. That the Respondents, W. H. Stead, the Attorney General of the State of Illinois; A. T. Lucas, State's Attorney for Cass County; Walter J. Chapman, State's Attorney for Jersey County; James H. Murphy, State's Attorney for Macoupin County; E. P. Nischwitz, State's Attorney for Mason County; Julian H. Hall, State's Attorney for Menard County; Robert Tilton, State's Attorney for Morgan County; J. H. Gillham, State's Attorney for Madison County; Edmund Burke, State's Attorney for Sangamon County; J. F. Tecklenberg, State's Attorney for St. Clair County; William J. Reardon, State's Attorney for Tazewell County and Robert Scholes, State's Attorney for Peoria County their agents, clerks and all persons
1465 acting for or in their behalf, be, and they are each hereby, restrained from enforcing or attempting to enforce the rates provided for in said Act of the General Assembly of the State of Illinois, approved the 27th day of May, 1907, entitled "An Act to establish and regulate the maximum rate of charges for the transportation of passengers by corporations or companies operating or controlling railroads in part or in whole, in this State, and to provide penalties for the violation of the provisions thereof, and repealing all Acts and parts of Acts in conflict herewith", and from enforcing or attempting to enforce, through any agency provided in the Statutes of the State of Illinois, or otherwise, any of the penalties prescribed by the Statutes of said State for failure on the part of said Intervening Petitioners, and the owners of said railways and property, their successors and assigns, to observe any of the provisions of said Act of the General Assembly of the State of Illinois; and that said

respondents and each of them, and all persons acting for or in their behalf, be, and the same are hereby enjoined and restrained from commencing or prosecuting any suit or action, or causing the same to be commenced or prosecuted for the failure of said Intervening Petitioners, and the owners of said railways and property, their successors or assigns, to observe and comply with the rates provided for in said Act of the General Assembly of the State of Illinois, and from taking any action with the intent and for the purpose of enforcing the provisions of said Act of the General Assembly of the State of Illinois, and from doing or attempting to do any act or thing, or to require said Intervening Petitioners, and the owners of said
1466 railways and property, their successors and assigns, to do any act or thing, by way of compliance with, or for the purpose of carrying out the provisions of, said Act of the General Assembly of the State of Illinois; and that a writ of Injunction issue in conformity with this Decree.

And it is further ordered, adjudged and decreed that this Court may, in exercising its function of managing said railway and property, institute any rate not exceeding three (3¢) cents per mile for the transportation of passengers over said railways within the State of Illinois.

Above decree presented as in conformity with opinion of Court dated Sept. 27, 1912.

Approved as to form

P. B. WARREN.

W. H. STEAD,
Attorney General.

Indorsed: Filed Oct. 3, 1912. R. C. Brown, Clerk.

1466½ UNITED STATES OF AMERICA,
Southern District of Illinois,
Southern Division, ss:

I, R. C. Brown, Clerk of the District Court of the United States for said Southern District of Illinois, and keeper of the records and seals thereof, do hereby certify the foregoing to be a true copy of the Final Decree upon the Intervening Petition of John P. Ramsey and H. M. Merriam, against W. H. Stead, et al. in the case of Trust Company of America, vs. Chicago, Peoria and St. Louis Railway Company of Illinois, No. 9431, entered October 3rd, 1912, as fully as the same appears from the records of said Court in said cause now on file and of file in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Springfield, in the District aforesaid, this 9th day of January in the year of our Lord one thousand nine hundred and seventeen.

[Seal of the District Court United States, Southern District Illinois.]

R. C. BROWN, *Clerk.*

[Endorsed:] No. 9431. In the District Court of the United States for the Southern District of Illinois, Southern Division. Trust Company of America vs. Chicago, Peoria and St. Louis Railway Company of Illinois. In the Matter of the Intervening Petition of John P. Ramsey and H. M. Merriam, Receivers vs. W. H. Stead, et al. Certified copy of Final Decree. C., P. & St. L. Ex. 1. N. S. 1/10/17.

1467 District Court of the United States, Northern District of Illinois, Eastern Division.

No. 753 (Consolidated Cases).

ILLINOIS CENTRAL RAILROAD COMPANY

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al.

DEFENDANTS' EXHIBIT No. 5.

(Being copies of all pleadings, answers, and orders in Business Men's League of St. Louis v. A., T. & S. F. R. Co., Docket 8083, before the Interstate Commerce Commission, with other papers as noted below):

A. Petition of Business Men's League of St. Louis, Mo., filed June 14, 1915.
B. Answers of respondents to complainants' said petition.
C. Intervening petition of Chicago Association of Commerce.
D. Intervening petition of State Public Utilities Commission of Illinois. Exhibit A to said petition is the statute of Illinois, entitled, "An Act to provide for the regulation of public utilities," this being the statute creating the Utilities Commission.
E. Intervening petition of the Keokuk Industrial Association.
F. Intervening petition of East Side Manufacturers' Association.
G. Intervening petition of the State of Illinois and the people of the State of Illinois.
H. Report and order of Interstate Commerce Commission made July 12, 1916. (Same as Plaintiffs' Exhibit 1.)
I. Order of Interstate Commerce Commission made September 6, 1916. (Same as Plaintiffs' Exhibit 2.)
J. Order of Interstate Commerce Commission, made October 11, 1916. (Same as Plaintiffs' Exhibit 3.)
K. Supplemental report of the Interstate Commerce Commission, and its order, made October 17, 1916. (Same as Plaintiffs' Exhibit 4.)
L. Petition of complainant Business Men's League of St. Louis to make Chicago & North Western Railway Company defendant.
M. Order on said petition made November 13, 1916, that all parties appear before Commissioner Daniels in Chicago, Ill., at Federal Building, November 20, 1916, 12:30 P. M., to show cause why C. & N. W. Ry. Co. should not be made party defendant

to said proceeding and have entered against it all the orders heretofore entered against other parties defendant.

N. Transcript of stenographer's notes of said last named hearing.

O. Response to said order of November 13, 1916, by State of Illinois, State Public Utilities Commission of Illinois, and attorney general of Illinois.

P. Answer of Chicago & North Western Railway Company to said response.

Q. Answer of defendants to complainants' original petition to said response of the State Public Utilities Commission of Illinois and the attorney general of Illinois.

R. Order of Interstate Commerce Commission of December 4, 1916, that Chicago & North Western Railway be and is made party defendant to said Business Men's League of St. Louis Case, and that all orders previously issued be made to run against it as of January 25, 1917.

1468 DEFENDANTS' EXHIBIT 5.

Interstate Commerce Commission, Washington.

I, George B. McGinty, Secretary of the Interstate Commerce Commission, do hereby certify that the attached are true copies of the complaint, answers of defendants, intervening petitions of The Chicago Association of Commerce, State Public Utilities Commission of Illinois, Keokuk Industrial Association, East Side Manufacturers' Association, and the State of Illinois and others; report and order of the Commission filed and entered July 12, 1916; orders of the Commission entered September 6, 1916, and October 11, 1916; report and order of the Commission filed and entered October 17, 1916; petition of the complainant to make the Chicago & North Western Railway Company a defendant; order of the Commission entered November 13, 1916; transcript of the stenographer's notes of the hearing held at Chicago, Illinois, on November 20, 1916, before Commissioner Daniels; and order of the Commission entered December 4, 1916, in case No. 8083, The Business Men's League of St. Louis against The Atchison, Topeka & Santa Fe Railway Company and others, the originals of which are now on file and of record in the office of this Commission.

In witness whereof, I have hereunto set my hand and affixed the Seal of said Commission this 30th day of December, A. D. 1916.

[Seal Interstate Commerce Commission, 1887.]

GEORGE B. McGINTY,
Secretary of the Interstate Commerce Commission.

1469 Docket No. 8083. Filed Jun- 14, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission, Washington, D. C.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS (a Corporation), Complainant,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, THE Baltimore & Ohio Southwestern Railroad Company, Chicago, Burlington & Quincy Railroad Company, Chicago Great Western Railroad Company, Chicago, Milwaukee & St. Paul Railway Company, Chicago, Milwaukee & Gary Railway Company, Chicago, Peoria & St. Louis Railroad Company and Bluford Wilson and Wm. Cotter, Receivers; The Chicago, Rock Island & Pacific Railway Company and H. U. Mudge and J. M. Dickinson, Receivers; Chicago, Terre Haute & Southeastern Railway Company, The Chicago & Alton Railroad Company, Chicago & Eastern Illinois Railroad Company and W. J. Jackson, Receiver; Chicago & Illinois Midland Railway Company, The Cincinnati, Hamilton & Dayton Railway Company and Judson Harmon and Rufus B. Smith, Receivers; The Cleveland, Cincinnati, Chicago & St. Louis Railway Company, Depue & Northern Railroad Company, Elgin, Joliet & Eastern Railway Company, The Hanover Railway Company, Illinois Central Railroad Company, The Illinois Southern Railway Company, Illinois Terminal Railroad Company, The Lake Erie & Western Railroad Company, Litchfield & Madison Railway Company, Louisville & Nashville Railroad Company, The Michigan Central Railroad Company, The Minneapolis & St. Louis Railroad Company, Minneapolis, St. Paul & Sault Ste. Marie Railway Company, Mobile & Ohio Railroad Company, Peoria & Pekin Union Railway Company, Peoria Railway Terminal Company, Rock Island Southern Railway, Southern Railway Company, St. Louis, Iron Mountain & Southern Railway Company, Toledo, St. Louis & Western Railroad Company and W. L. Ross, Receiver; Vandalia Railroad Company, The Wabash Railroad Company and E. B. Pryor and Edw. F. Kearney, Receivers; The Wabash, Chester & Western Railroad Company and J. Fred Gilster, Receivers; Toledo, Peoria & Western Railway Company, The New York Central Railroad Company, Southern Illinois Railway & Power Company, St. Louis Merchants Bridge Terminal Railway Company, Terminal Railroad Association of St. Louis, Wiggins Ferry Company, Defendants.

Petition of Business Men's League of St. Louis, Missouri.

Stewart, Bryan & Williams, Attorneys.

P. W. Coyle, Traffic Commissioner.

1470 Before the Interstate Commerce Commission, Washington, D. C.

Docket No. —

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS (a corporation), Complainant,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, THE BALTIMORE & OHIO SOUTHWESTERN RAILROAD COMPANY, CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, CHICAGO GREAT WESTERN RAILROAD COMPANY, CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY, CHICAGO, MILWAUKEE & GARY RAILWAY COMPANY, CHICAGO, PEORIA & ST. LOUIS RAILROAD COMPANY AND BLUFORD WILSON AND WM. COTTER, Receivers; THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY AND H. U. MUDGE AND J. M. DICKINSON, Receivers; CHICAGO, TERRE HAUTE & SOUTHEASTERN RAILWAY COMPANY, THE CHICAGO & ALTON RAILROAD COMPANY, CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY AND W. J. JACKSON, Receiver; CHICAGO & ILLINOIS MIDLAND RAILWAY COMPANY, THE CINCINNATI, HAMILTON & DAYTON RAILWAY COMPANY AND JUDSON HARMON AND RUFUS B. SMITH, Receivers; THE CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY, DEPUE & NORTHERN RAILROAD COMPANY, ELGIN, JOLIET & EASTERN RAILWAY COMPANY, THE HANOVER RAILWAY COMPANY, ILLINOIS CENTRAL RAILROAD COMPANY, THE ILLINOIS SOUTHERN RAILWAY COMPANY, ILLINOIS TERMINAL RAILROAD COMPANY, THE LAKE ERIE & WESTERN RAILROAD COMPANY, LITCHFIELD & MADISON RAILWAY COMPANY, LOUISVILLE & NASHVILLE RAILROAD COMPANY, THE MICHIGAN CENTRAL RAILROAD COMPANY, THE MINNEAPOLIS & ST. LOUIS RAILROAD COMPANY, MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE RAILWAY COMPANY, MOBILE & OHIO RAILROAD COMPANY, PEORIA & PEKIN UNION RAILWAY COMPANY, PEORIA RAILWAY TERMINAL COMPANY, ROCK ISLAND SOUTHERN RAILWAY, SOUTHERN RAILWAY COMPANY, ST. LOUIS, IRON MOUNTAIN & SOUTHERN RAILWAY COMPANY, TOLEDO, ST. LOUIS & WESTERN RAILROAD COMPANY AND W. L. ROSS, Receiver; VANDALIA RAILROAD COMPANY, THE WABASH RAILROAD COMPANY AND E. B. PRYOR AND EDW. F. KEARNEY, Receivers; THE WABASH, CHESTER & WESTERN RAILROAD COMPANY AND J. FRED GILSTER, Receivers, TOLEDO, PEORIA & WESTERN RAILWAY COMPANY, THE NEW YORK CENTRAL RAILROAD COMPANY, SOUTHERN ILLINOIS RAILWAY & POWER COMPANY, ST. LOUIS MERCHANTS BRIDGE TERMINAL RAILWAY COMPANY, TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS, WIGGINS FERRY COMPANY, Defendants.

Petition of Business Men's League of St. Louis, Missouri.

The Business Men's League of St. Louis respectfully states:

1471 I.

The complainant herein, the Business Men's League of St. Louis, is a corporation duly organized and existing under the laws of the

State of Missouri, and has its offices in the City of St. Louis, Missouri. Among the objects of the League is the promotion of the interests of St. Louis in every avenue of trade and commerce, the fostering of manufacturing and commercial enterprises of St. Louis, the securing of proper freight rates by common carriers and the prevention of discrimination against St. Louis, its manufacturing and commercial interests, and its citizens. The League comprises in its membership and otherwise represents nine hundred or more business men, firms and corporations, which are merchants and manufacturers doing business in the City of St. Louis and its vicinity; and its members originate and receive about seventy-five per cent (75%) of the freight tonnage of St. Louis.

This complaint is made on behalf of members of the League residing in St. Louis and of its members who are merchants and manufacturers in St. Louis, and who as such residents and as such merchants and manufacturers are shippers and receivers of freight shipped between St. Louis and points in the State of Illinois, including those hereinafter mentioned, and they and their customers and the public generally are passengers between St. Louis and such points.

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II.

That the defendant corporations above named are common carriers (and the individual defendants above named are receivers of said named defendants) engaged in the transportation of passengers and property wholly by railroad (and partly by railroad and partly by water) between points in the State of Missouri and points in the State of Illinois, and points in other states of the United States, and particularly between St. Louis, in the State of Missouri, and various points in the State of Illinois as defendants' respective lines may run, and that as such common carriers and receivers thereof, defendants are subject to the provisions of the Act to Regulate Commerce, approved February 4, 1887, and all acts amendatory thereof or supplementary thereto.

III.

Complainant also states that merchants, manufacturers, jobbers and others located at said City of St. Louis, Missouri, have been and are shippers of freight of the various classes and also of commodities from said St. Louis, Missouri, into the State of Illinois, for carriage and delivery by defendants to various consignees at various points in said State, and have been and are also consignees of various articles of freight shipped from various points in the State of Illinois

1473 over the lines of defendants for delivery at said St. Louis, Missouri; that such merchants, manufacturers, jobbers and others are members of complainant. Complainant also states that members of complainant as passengers travel over the lines of defendants between St. Louis and points in Illinois, as do the customers of members of complainant and the public generally.

Complainant states that the City of St. Louis, in which the mem-

ers of complainant reside, and are located and conduct their business, has been and is in the 117 per cent group of Official Classification Territory; that as a result of this Commission's order and ruling, interstate rates for passengers and for freight in Official Classification Territory were recently advanced, and as a part of such advance in rates the passenger and freight rates on interstate movements over the lines of defendants between St. Louis and points in the State of Illinois were advanced and are now effective. Prior to such advanced interstate rates becoming effective, passenger and freight rates between St. Louis and points in Illinois were, generally speaking, on the same general basis as the intrastate rates between points similarly situated in Illinois; that since said interstate advanced rates for passenger and freight traffic between St. Louis and points in Illinois became effective, the rates for passengers and for freight between points in the State of Illinois have not been by defendants correspondingly or proportionately advanced.

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Complainant further states that prior to the effective date of such advanced interstate rates, the rates between St. Louis, Missouri, and Chicago (as well as between St. Louis and other points in Illinois) were the same as the rates between East St. Louis, Illinois, and Chicago; the same is true with respect to the rates between Madison, Illinois, and Chicago; Granite City, Illinois, and Chicago; Venice, Illinois, and Chicago, and Dupo, Illinois, and Chicago; and complainant states that by reason of said advance in said interstate rates between St. Louis and Illinois points, and the fact that no similar or proportionate advance has been made in the passenger and freight rates between points in Illinois, the result has worked a discrimination on inbound and outbound passenger and freight traffic passing over defendants' lines between St. Louis and points in Illinois.

That the following comparison shows for illustrative purposes the present effective passenger fares between St. Louis and certain points in Illinois, and the passenger fares over the same lines between Chicago, Illinois, and the same points in Illinois, and show the discrimination for similar mileages against St. Louis by reason thereof:

1474½

Comparative Passenger Fares.

St. Louis.

	Miles.	Fares.	Rate per Mile.	Tariff Reference.
Clinton, Ill.	146	$3.40	2.32	Ill. Cent. Trf. C-2, I. C. C. A4331
McLean, Ill.	143	3.40	2.37	C. & A. Trf. 46, I. C. C. 1236
Villa Grove, Ill.	145	3.79	2.61	C. & E. I. Trf. 7, I. C. C. 1389
Larchland, Ill.	179	3.77	2.1	Bur. Trf. 8-A, I. C. C. 2582
Monticello, Ill.	141	3.65	2.58	Wab. Trf. 15-A, I. C. C. 4014

Chicago, Ill.

	Miles.	Fares.	Rate per Mile.	Tariff Reference.
Clinton, Ill.....	147	$2.94	2.	Ill. Cent. Trf. C-1, I. C. C. 2796
McLean, Ill.....	141	2.82	2.	C. & A. Trf. 45, I. W. C. 162
Villa Grove, Ill..	145	2.90	2.	C. & E. I. Trf. 25, S. P. U. C. 41
Larchland, Ill...	185	3.70	2.	Special supplement to Bur. Trf. 1-G, I. C. C. 3009
Monticello, Ill...	145	2.92	2.	Wab. Trf. 8-C, S. P. U. C. 54

That the following comparison of the present class rates on freight between St. Louis and northern Illinois points and between Chicago, Illinois, and Southern Illinois points, shows for practically equal mileages the discrimination worked against St. Louis:

Comparative Rates from St. Louis to Northern Illinois Points vs. Chicago to Southern Illinois Points Equidistant.

St. Louis, Mo.

	Miles	1	2	3	4	5	Tariff Reference.
Rockbridge,	52	27.6	22.9	19.7	14.	11.6	C., B. & Q. Trf. 8200-C, I. C. C. 11120
Rate per ton per mile		10.6	8.8	7.57	5.38	4.46	
Farmersville,	75	31.5	26.5	21.2	15.9	12.9	I. C. Trf. 1733-D, I. C. C. A-8737
Rate per ton per mile		8.4	7.06	5.65	4.24	3.44	
Blue Mound,	99	33.2	26.5	21.2	16.1	12.9	Wab. Trf. C-5865, I. C. C. 3846
Rate per ton per mile		6.7	5.35	4.28	3.25	2.6	
Bongard,	150	37.	30.	23.3	19.	15.1	C. & E. I. Trf. 4000-B, I. C. C. 2781
Rate per ton per mile		5.05	4.0	3.1	2.53	2.01	
Odell,	202	41.1	33.2	25.6	20.6	16.4	C. & A. Trf. 326-C, I. C. C. A-700
Rate per ton per mile		4.06	3.28	2.53	203	1.62	
Lockport,	251	43.8	35.5	27.6	22.2	17.6	C. & A. Trf. 326-C, I. C. C. A-700
Rate per ton per mile		3.4	2.82	2.19	1.76	1.4	

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Chicago, Ill.

	Miles	1	2	3	4	5	Tariff Reference.
Wilmington,	52½	24.1	19.6	16.5	11.7	9.3	C. & A. Trf. 312-B, I. C. C. A-488
	Rate per ton per mile	9.09	7.39	6.22	4.41	3.5	
Emington,	76.9	27.8	23.3	19.	13.5	10.8	Wab. Trf. 6835, I. C. C. 1027
	Rate per ton per mile	7.22	6.05	4.93	3.5	2.8	
Paxton,	101.35	31.6	25.2	20.2	15.3	12.3	I. C. Trf. 9299-A, I. C. C. A-8090
	Rate per ton per mile	6.25	4.99	4.	3.02	2.43	
West Ridge,	149	36.1	28.6	22.2	18.01	14.4	C. & E. I. Trf. 4580, I. C. C. 2523
	Rate per ton per mile	4.84	3.83	2.97	2.42	1.93	
Clarksburg,	200.2	39.6	32.	24.8	19.9	15.9	C. & E. I. Trf. 4580, I. C. C. 2523
	Rate per ton per mile	3.96	3.2	2.48	1.99	1.59	
Centralia,	250.92	42.3	34.3	26.7	21.4	17.1	I. C. Trf. 9299-A, I. C. C. 8090
	Rate per ton per mile	3.37	2.73	2.12	1.7	1.36	

1476 That the following comparison shows the class and commodity rates on freight for equal distances and under like conditions and circumstances from St. Louis to Illinois points and from Chicago to Illinois points:

(Here follows table, marked page 1477.)

		Classes. 1	2	3	4	5	
Clinton, Ill.	Miles 147—Chicago	36.1	28.6	22.2	18.1	14.4	I. C. Trf. 9299-A, I. C. C. A-8090
	Rate per ton per mile.	4.9	3.89	3.02	2.46	1.95	
	Miles 146—St. Louis	37.5	29.6	23.1	18.6	14.9	I. C. Trf. 1733-D, I. C. C. A-8737
	Rate per ton per mile.	5.13	4.05	3.16	2.54	2.04	
McLean, Ill.	Miles 141—Chicago	35.7	28.2	22.	17.7	14.2	C. & A. Trf. 312-B, I. C. C. A-488
	Rate per ton per mile.	5.06	4.0	3.12	2.51	2.01	
	Miles 143—St. Louis	37.1	29.2	22.8	18.3	14.7	C. & A. Trf. 326-C, I. C. C. A-700
	Rate per ton per mile.	5.18	4.08	3.18	2.55	2.05	
Villa Grove, Ill.	Miles 145—Chicago	35.7	28.2	22.	17.7	14.2	C. & E. I. Trf. 4580, I. C. C. 2523
	Rate per ton per mile.	4.92	3.88	3.03	2.44	1.95	
	Miles 145—St. Louis	37.5	29.6	23.1	18.6	14.9	C. & E. I. Trf. 4000B, I. C. C. 2781
	Rate per ton per mile.	5.17	4.08	3.18	2.56	2.05	
Larchland, Ill.	Miles 185—Chicago	38.4	30.7	23.8	19.1	15.3	C. B. & Q. Trf. 8200-A, I. C. C. 10268
	Rate per ton per mile.	4.15	3.31	2.57	2.06	1.65	
	Miles 179—St. Louis	39.9	31.9	24.7	18.9	16.	C. B. & Q. Trf. 8200-C, I. C. C. 11120
	Rate per ton per mile.	4.45	3.56	2.75	2.11	1.78	
Monticello, Ill.	Miles 145—Chicago	34.2	26.7	21.1	16.5	13.2	Wab. Trf. 6835, I. C. C. 1027
	Rate per ton per mile.	4.71	3.68	2.9	2.27	1.82	
	Miles 141—St. Louis	37.1	29.2	22.8	18.3	14.7	Wab. Trf. C-5865, I. C. C. 3846
	Rate per ton per mile.	5.26	4.14	3.23	2.59	2.08	

Commodities.

Clinton, Ill.

Per Ton Per Mile.	C. L.	Rate.	Chicago.	Rate.	St. Louis.	Per Ton Per Mile.
1.76	Agricul. Imple...	†.13	E. B. Boyd's Trf. 509-A, I. C. C. A-367.	*.141	I. C. Trf. 1733-D, I. C. C. A-8737.....	1.9
1.36	Burlap Bags.....	†.10	E. B. Boyd's Trf. 509-A, I. C. C. A-367.	*.186	I. C. Trf. 1733-D, I. C. C. A-8737.....	2.54
1.63	Beer	†.12	T. B. Boyd's Trf. 509-A, I. C. C. A-367.	†.13	I. C. Trf. 6529-F, I. C. C. A-8858.....	1.78
0.95	Bar Iron	†.07	E. B. Boyd's Trf. 509-A, I. C. C. A-367.	*.149	I. C. Trf. 1733-D, I. C. C. A-8737.....	2.04
1.42	Wrapping Pap'r.	†.10½	E. B. Boyd's Trf. 509-A, I. C. C. A-367.	*.131	I. C. Trf. 1733-D, I. C. C. A-8737.....	1.79
1.42	Pickles & Kraut..	†.10½	E B. Boyd's Trf. 509-A, I. C. C. A-367.	*.149	I. C. Trf. 1733-D, I. C. C. A.-8737.....	2.04

McLean, Ill.

1.84	Agricul. Imple. ..	†.13	E. B. Boyd's Trf. 509-A, I. C. C. A-367.	*.14	C. & A. Trf. 326-C, I. C. C. A-700.....	1.95
1.41	Burlap Bags	†.10	E. B. Boyd's Trf. 509-A, I. C. C. A-367.	*.183	C. & A. Trf. 326-C, I. C. C. A-700.....	2.55
1.7	Beer	†.12	E. B. Boyd's Trf. 509-A, I. C. C. A-367.	†.137	C. & A. Trf. 795-D, I. C. C. A-711.....	1.91
0.99	Bar Iron	†.07	E. B. Boyd's Trf. 509-A, I. C. C. A-367.	*.147	C. & A. Trf. 326-C, I. C. C. A-700.....	2.05
1.48	Wrapping Pap'r..	†.10½	E. B. Boyd's Trf. 509-A, I. C. C. A-367.	*.13	C. & A. Trf. 326-C, I. C. C. A-700.....	1.8
1.48	Pickles & Kraut..	†.10½	E. B. Boyd's Trf. 509-A, I. C. C. A-367.	*.147	C. & A. Trf. 326-C, I. C. C. A-700.....	2.05

Villa Grove, Ill.

1.84	Agricul. Imple. ..	*.134	C. & E. I. Trf. 4580, I. C. C. 2523.....	*.142	C. & E. I. Trf. 4000-B, I. C. C. 2781.....	1.94
2.44	Burlap Bags	*.177	C. & E. I. Trf. 4580, I. C. C. 2523.....	*.186	C. & E. I. Trf. 4000-B, I. C. C. 2781.....	2.56
1.95	Beer	*.142	C. & E. I. Trf. 4580, I. C. C. 2523.....	*.149	C. & E. I. Trf. 4000-B, I. C. C. 2781.....	2.05
1.95	Bar Iron	*.142	C. & E. I. Trf. 4580, I. C. C. 2523.....	*.149	C. & E. I. Trf. 4000-B, I. C. C. 2781.....	2.05
1.72	Wrapping Pap'r.	*.12½	C. & E. I. Trf. 4580, I. C. C. 2523.....	*.131	C. & E. I. Trf. 4000-B, I. C. C. 2781.....	1.8
1.95	Pickles & Kraut..	*.142	C. & E. I. Trf. 4580, I. C. C. 2523.....	*.149	C. & E. I. Trf. 4000-B, I. C. C. 2781.....	2.05

Larchland.

1.58	Agricul. Imple. ..	*.147	C. B. & Q. Trf. 8200-A, I. C. C. 10268..	*.153	C. B. & Q. Trf. 8200-C, I. C. C. 11120....	1.7
2.06	Burlap Bags	*.191	C. B. & Q. Trf. 8200-A, I. C. C. 10268..	†.152	C. B. & Q. Trf. 6100-E, I. C. C. 11111....	1.6
1.62	Beer	†.15	C. B. & Q. Trf. 6100-C, I. C. C. 10280..	†.147	C. B. & Q. Trf. 6100-E, I. C. C. 11111....	1.64
0.86	Bar Iron	†.08	C. B. & Q. Trf. 6100-C, I. C. C. 10280..	† 8.4	C. B. & Q. Trf. 6100-E, I. C. C. 11111....	0.93
1.13	Wrapping Pap'r.	†.10½	C. B. & Q. Trf. 6100-C, I. C. C. 10280..	† 8.4	C. B. & Q. Trf. 6100-E, I. C. C. 11111....	0.93
1.35	Pickles & Kraut..	†.12½	C. B. & Q. Trf. 6100-C, I. C. C. 10280..	†13.1	C. B. & Q. Trf. 6100-E, I. C. C. 11111....	1.46

Monticello, Ill.

1.51	Agricul. Imple. ..	†.11	E. B. Boyd's Trf. 509-A, I. C. C. A-367.	*.14	Wab. Trf. C-5865, I. C. C. 3846.....	0.19
1.65	Beer	†.12	E. B. Boyd's Trf. 509-A, I. C. C. A-367.	†.147	Wab. Trf. I-5811, I. C. C. 3863.....	2.08
0.96	Bar Iron	†.07	E. B. Boyd's Trf. 509-A, I. C. C. A-367.	†.09½	Wab. Trf. G-5654, I. C. C. 3745.....	1.34
1.44	Wrapping Pap'r.	†.10½	E. B. Boyd's Trf. 509-A, I. C. C. A-367.	*.13	Wab. Trf. C-5865, I. C. C. 3846.....	1.84
2.27	Burlap Bags	*.165	Wabash Tariff 6835, I. C. C. 1027.....	*.183	Wab. Trf. C-5865, I. C. C. 3846.....	2.59

†Commodity.
*Class rate.

THIS PAGE BOUND VERTICAL IN BOOK

Chicago, Ill.

1478 That the following comparison of present rates on class freight shows the rates for equal distances from St. Louis, Missouri, to Illinois points and from East St. Louis, Illinois, to the same Illinois points, which destination points in Illinois are beyond the so-called one hundred-mile zone:

1479 *Points Beyond* 100-*Mile Zone.*

	Miles.	1	2	3	4	5	
Greenup, Ill.....	123.5 St. Louis.....	35.9	28.	22.2	17.3	13.9	Vand. Trf. 47-D, I. C. C. 2756
	E. St. Louis...	34.2	26.7	21.1	16.5	13.2	Vand. Trf. 47-B, I. C. C. 2620
Tamms, Ill....	136.1 St. Louis.....	37.8	29.9	23.2	18.8	15.	M. & O. Trf. 9700, I. C. C. 1103
	132.9 E. St. Louis...	36.02	28.52	22.12	18.02	14.32	M. & O. Trf. 7955, I. C. C. A-978
Clinton, Ill....	146. St. Louis.....	37.5	29.6	23.1	18.6	14.9	I. C. Trf. 1733-D, I. C. C. A-8737
	143. E. St. Louis...	35.7	28.2	22.	17.7	14.2	I. C. Trf. 2653-C, I. C. C. A-7721
Mansfield, Ill..	154.5 St. Louis.....	38.3	30.3	23.5	19.1	15.3	Wab. Trf. C-5865, I. C. C. 3846
	151.3 E. St. Louis...	36.5	28.9	22.4	18.2	14.6	Wab. Trf. 8604, I. C. C. 1474
Atlanta, Ill....	138.1 St. Louis.....	36.8	28.9	22.6	18.	14.4	C. & A. Trf. 326-C, I. C. C. A-700
	134.9 E. St. Louis...	35.	27.5	21.5	17.1	13.7	C. & A. Trf. 326-A, I. C. C. A-387

THIS PAGE BOUND

1480 That the following comparison of class rates between St. Louis, Missouri, and Illinois points within the so-called one-hundred mile zone and between East St. Louis and the same Illinois points within such so-called one-hundred-mile zone, further show the discrimination worked against St. Louis, and also shows that the present rate from St. Louis to such points within such so-called one-hundred-mile zone is higher than the combination on East St. Louis:

Points Within 100-Mile Zone.

And—	Between:	1	2	3	4	5		Miles.
Murphysboro..	E. St. Louis.....	28.6	23.7	19.2	13.9	11.1	M. & O. Trf. 7955, I. C. C. A-978.....	90.
	St. L. to E. St. L.	3.	3.	3.	2.	2.	Ter. R. R. Ass'n 23-G, I. C. C. 98.	
	E. St. L. Comb..	31.6	26.7	22.2	15.9	13.1		
	St. Louis.....	33.	26.5	21.2	16.1	12.9	M. & O. Trf. 9700, I. C. C. A-1103.....	93.2
Duquoin.....	E. St. Louis.....	27.1	22.6	18.8	13.2	10.5	I. C. Trf. 2653-C, I. C. C. A-7721.....	71.2
	St. L. to E. St. L.	3.	3.	3.	2.	2.	Ter. R. R. Ass'n 23-G, I. C. C. 98.	
	E. St. L. Comb..	30.1	25.6	21.8	15.2	12.5		
	St. Louis.....	31.5	26.5	21.2	15.9	12.9	I. C. Trf. 1733-D, I. C. C. A-8737.....	74.
Mt. Vernon...	E. St. Louis.....	29.8	24.9	20.6	14.5	11.6	L. & N. Trf. 1401, I. C. C. A-11363.....	76.
	St. L. to E. St. L.	3.	3.	3.	2.	2.	Ter. R. R. Ass'n 23-G, I. C. C. 98.	
	E. St. L. Comb..	32.8	27.9	23.6	16.5	13.6		
	St. Louis.....	33.6	27.2	21.6	16.7	13.4	L. & N. Trf. 2254, I. C. C. A-13223.....	79.
Sandoval.....	E. St. Louis.....	24.8	20.3	17.3	12.	9.6	B. & O. S. W. Trf. H-2176-E, I. C. C. 6858	59.
	St. L. to E. St. L.	3.	3.	3.	2.	2.	Ter. R. R. Ass'n 23-G, I. C. C. 98.	
	E. St. L. Comb..	27.8	23.3	20.3	14.	11.6		
	St. Louis.....	29.	24.3	21.2	14.6	12.1	B. & O. S. W. Trf. 2176-G, I. C. C. 7154..	62.
Germantown..	E. St. Louis.....	23.2	19.	15.7	11.6	9.2	So. Ry. Trf. I. C. C. 1404.....	39.
	St. L. to E. St. L.	3.	3.	3.	2.	2.	Ter. R. R. Ass'n 23-G, I. C. C. 98.	
	E. St. L. Comb..	26.2	22.	18.7	13.6	11.2		
	St. Louis.....	27.4	23.	19.5	14.2	11.7	So. Ry. Ill. Local C-1, I. C. C. C-1600....	42.
Dana.....	E. St. Louis.....	28.6	23.7	19.2	13.9	11.1	Big 4 Trf. 536-D, I. C. C. 4101.....	82.2
	St. L. to E. St. L.	3.	3.	3.	2.	2.	Ter. R. R. Ass'n 23-G, I. C. C. 98.	
	E. St. L. Comb..	31.6	26.7	22.2	15.9	13.1		
	St. Louis.....	33.	26.5	21.2	16.1	12.9	Big 4 Trf. 581-E, I. C. C. 6520.....	85.2

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Greenville.....	E. St. Louis.....	23.3	18.8	15.8	11.3	9.	Vand. Trf. 47-B, I. C. C. 2620..... 48.2
	St. L. to E. St. L.	3.	3.	3.	2.	2.	Ter. R. R. Ass'n 23-G, I. C. C. 98.
	E. St. L. Comb..	26.3	21.8	18.8	13.3	11.	
	St. Louis.....	27.5	22.7	19.6	13.9	11.5	Vand. Trf. 47-D, I. C. C. 2756..... 51.5
Taylorville....	E. St. Louis.....	28.6	23.7	19.2	13.9	11.1	Wab. Trf. 8604, I. C. C. 1474..... 81.6
	St. L. to E. St. L.	3.	3.	3.	2.	2.	Ter. R. R. Ass'n 23-G, I. C. C. 98.
	E. St. L. Comb..	31.6	26.7	22.2	15.9	13.1	
	St. Louis.....	33.	26.5	21.2	16.1	12.9	Wab. Trf. C-5865, I. C. C. 3846..... 84.8
Springfield....	E. St. Louis.....	30.	24.4	19.7	14.7	11.7	C. & A. Trf. 326-A, I. C. C. A-387..... 95.6
	St. L. to E. St. L.	3.	3.	3.	2.	2.	Ter. R. R. Ass'n 23-G, I. C. C. 98.
	E. St. L. Comb..	33.	27.4	22.7	16.7	13.7	
	St. Louis.....	33.2	26.5	21.2	16.1	12.9	C. & A. Trf. 326-C, I. C. C. A-700..... 98.8
Dollville.....	E. St. Louis.....	30.	24.4	19.7	14.7	11.7	C. & E. I. Trf. 4000, I. C. C. 2485..... 88.4
	St. L. to E. St. L.	3.	3.	3.	2.	2.	Ter. R. R. Ass'n 23-G, I. C. C. 98.
	E. St. L. Comb..	33.	27.4	22.7	26.7	13.7	
	St. Louis.....	33.2	26.5	21.2	16.1	12.9	C. & E. I. Trf. 4000-B, I. C. C. 2781.... 90.6

GE BOUND
AL IN BOOK

1481 That while the above illustrate the unjustness and unreasonableness of the rates and the discrimination existing as between points named on interstate traffic, the same is now true to a greater or less extent on all passenger traffic between St. Louis and other points in Illinois over each and all the lines of defendants, and is similarly true with respect to class and commodity freight. That said present passenger, class and commodity interstate rates between St. Louis and each of the points in Illinois on each of the lines of each of the defendants are contained in the following tariffs in the column at the left—the tariffs containing the lower Illinois rates being shown in the column at the right:

Passenger.

St. Louis Tariffs.	Illinois Tariffs.
Baltimore & Ohio Southwestern Railroad Company.	
I. C. C. 3199.	Tariff No. 1, I. P. U. C. No. 27.
Chicago, Burlington & Quincy Railroad Company.	
Tariff No. 1-G, I. C. C. 3009. Tariff No. 8-A, I. C. C. 2582.	Tariff No. 2-C, I. C. C. 2987.
Chicago & Alton Railroad Company.	
Tariff No. 46, I. C. C. 1236.	Tariff No. 45, I. W. C. 162.
Chicago & Eastern Illinois Railroad Company.	
Tariff No. 27, I. C. C. 1389.	Tariff No. 25, I. P. U. C. 41.
Chicago, Peoria & St. Louis Railroad Company.	
Tariff No. 153, I. C. C. A-643.	Tariff No. 139, I. P. U. C. 69.
Cleveland, Cincinnati, Chicago & St. Louis Railway Company.	
Tariff (Circular B) No. 8797, I. C. C. 3953. Tariff No. 7, I. C. C. 3947.	Tariff No. S-3, I. R. W. C. 54. Tariff No. 6, I. R. W. C. 53.

1482

Illinois Central Railroad Company.	
Tariff No. B-3, I. C. C. 4327. Tariff No. C-2, I. C. C. 4331. Tariff No. D-3, I. C. C. 4334.	Tariff No. B-2, I. C. C. 4259, I. R. C. 90. Tariff No. C-1, I. C. C. 2796. Tariff No. D-2, I. C. C. 4272, I. R. C. 104.

Louisville & Nashville Railroad Company.

Tariff No. G. P. D. 2700, I. C. C. 3571. Tariff No. G. P. D. 2597.

Mobile & Ohio Railroad Company.

Tariff No. 11, I. C. C. 1231. Tariff No. E-1, I. R. C. No. 8.

St. Louis, Iron Mountain & Southern Railway Company.

Tariff No. O-2, I. C. C. 4839. Tariff No. OO-1.

Southern Railway Company.

Tariff I. C. C. No. 3293. Illinois Tariff No. 1.

Toledo, St. Louis & Western Railroad Company.

Tariff No. 9, I. C. C. 1402. Tariff No. 6, I. W. C. 29.

Vandalia Railroad Company.

I. C. C. No. 1034. I. P. U. C. No. 1.

Wabash Railroad Company.

Tariff No. 15-A, I. C. C. 4014. Tariff No. 20, I. S. P. U. C. No. 57.

Freight.

St. Louis Tariffs. Illinois Tariffs.

Atchison, Topeka & Santa Fe Railway Company.

Tariff No. 7712-E, I. C. C. 6906. Tariff No. 7712-C, I. C. C. 6303.
Tariff No. 8400-B, I. C. C. 6907. Tariff No. 8400, I. C. C. 4076.
Tariff No. 10400-D, I. C. C. 6894. Tariff No. 10400-B, I. C. C. 6100.
Tariff No. 11636-A, I. C. C. 6897. Tariff No. 11636, I. C. C. 6283.
Tariff No. 9253-C, I. C. C. 6924. Tariff No. 9253-B, I. C. C. 5813.
Sup. 11 to 9287-A, I. C. C. 6372. Tariff No. 9287-A, I. C. C. 6372.

1483 Baltimore & Ohio Southwestern Railroad Company.

Tariff No. H2176-G, I. C. C. 7154. Tariff No. H2106, I. C. C. 6858.
Tariff No. H2134-D, I. C. C. 7098. Tariff No. H2134, I. C. C. 6270.
Tariff No. H2492, I. C. C. 7136. Tariff No. H1907-A, I. C. C. 6422.
Tariff No. H2200-D, I. C. C. 7102. Tariff No. H2200-B, I. C. C. 6449.
Tariff No. H2256-F, I. C. C. 7106. Tariff No. H2256-D, I. C. C. 6894.
Tariff No. H2326-B, I. C. C. 7115. Tariff No. H2326, I. C. C. 6517.
Tariff No. H2426-B, I. C. C. 7126. Tariff No. H2426, I. C. C. 6871.
Tariff No. H2419-B, I. C. C. 7123. Tariff No. H2419-A, I. C. C. 7045.

Chicago, Burlington & Quincy Railroad Company.

G. F. O. 8200-C, I. C. C. 11120.	G. F. O. 8200-A, I. C. C. 10268.
G. F. O. 829-J, I. C. C. 11151.	G. F. O. 829-H, I. C. C. 10713.
G. F. O. 8350-C, I. C. C. 11125.	G. F. O. 8350-A, I. C. C. 10403.
G. F. O. 6100-E, I. C. C. 11111.	G. F. O. 6100-C, I. C. C. 10280.
G. F. O. 4638-E, I. C. C. 11127.	G. F. O. 4638-C, I. C. C. 10735.
G. F. O. 2700-E, I. C. C. 11143.	G. F. O. 2700-C, I. C. C. 10203.
G. F. O. 10622-B, I. C. C. 11167.	G. F. O. 10622-A, I. C. C. 11076.
G. F. O. 2224-I, I. C. C. 11126.	G. F. O. 2224-G, I. C. C. 10775.
G. F. O. 2558-D, I. C. C. 11130.	G. F. O. 2558-B, I. C. C. 8901.
Sup. 28 to 3400-B, I. C. C. 10261.	G. F. O. 3400-B, I. C. C. 10261.

Chicago, Milwaukee & St. Paul Railway Company.

G. F. D. 3300-B, I. C. C. B-2963.	G. F. D. 3300-A, I. C. C. A-10124.
Sup. 30 to 9921-A, I. C. C. C. 2265.	G. F. D. 9921-A, I. C. C. B-2265.
Sup. 52 to 999-B, I. C. C. B-1963.	G. F. D. 999-B, I. C. C. B-1963.
Sup. 48 to 4300-A, I. C. C. B-676.	G. F. D. 4300-A, I. C. C. B-676.

Chicago, Peoria & St. Louis Railroad Company.

Tariff No. 10413, I. C. C. 989, Sections 1 & 2.	Tariff No. 10413, I. C. C. 989, Sections 4 & 5.
Tariff No. 10412, I. C. C. 988, Sections 1 & 2.	Tariff No. 10412, I. C. C. 988, Sections 3 & 4.

Chicago, Rock Island & Pacific Railway Company.

Tariff No. 27491-C, I. C. C. C-9734.	Tariff No. 27491-A, I. C. C. C-9102.
Tariff No. 16150-G, I. C. C. C-9736.	Tariff No. 16150-E, I. C. C. C-9429.
Sup. 7 to 17100-A, I. C. C. C-9430.	Tariff No. 17100-A, I. C. C. C-9430.
Tariff No. 24004-D, I. C. C. C-9745.	Tariff No. 24004-B, I. C. C. C-9110.
Sup. 36-37, 10427-E, I. C. C. C-9140.	Tariff No. 10427-E, I. C. C. C-9140.
Sup. 11, 29252, I. C. C. C-9499.	Tariff No. 29252, I. C. C. C-9499.
Sup. 32, 27321, I. C. C. C-8824.	Tariff No. 27321, I. C. C. C-8824.

1484 Chicago, Terre Haute & Southeastern Railway Company.

G. F. O. 537-C, I. C. C. 235.	G. F. O. 537-A, I. C. C. 602.

Chicago & Alton Railroad Company.

Tariff No. 326-C, I. C. C. A-700.	Tariff No. 312-B, I. C. C. A-488.
Tariff No. 312-D, I. C. C. A-695.	Tariff No. 663-A, I. C. C. A-195.
Tariff No. 663-C, I. C. C. A-706.	Tariff No. 662-B, I. C. C. A-467.
Tariff No. 662-D, I. C. C. A-705.	Tariff No. 650-A, I. C. C. A-30.
Tariff No. 650-C, I. C. C. A-702.	Tariff No. 795-B, I. C. C. A-553.
Tariff No. 795-D, I. C. C. A-711.	Tariff No. 1803-A, I. C. C. A-190.
Tariff No. 1803-C, I. C. C. A-731.	Tariff No. 773-A, I. C. C. 2105.
Tariff No. 773-C, I. C. C. A-709.	Tariff No. 760-A, I. C. C. 1675.
Tariff No. 760-C, I. C. C. A-707.	Tariff No. 1501-B, I. C. C. A-271.
Tariff No. 1501-D, I. C. C. A-719.	Tariff No. 1522-C, I. C. C. A-558.
Tariff No. 1522-E, I. C. C. A-720.	Tariff No. 1171-C, I. C. C. A-484.
Tariff No. 1171-E, I. C. C. A-763.	Tariff No. 1300-B, I. C. C. A-322.
Tariff No. 1300-D, I. C. C. A-716.	Tariff No. 1860-B, I. C. C. A-338.
Tariff No. 1860-D, I. C. C. A-732.	Tariff No. 1401-C, 1401-C, Sub. 5, I. C. C. A-315 & A-689.
Tariff No. 1401-E, I. C. C. A-718.	Tariff No. 1400-D, 1400-D, Sub. 1 & 2, I. C. C. A-461.
Tariff No. 1400-F, I. C. C. A-717.	
Tariff No. 326-A, I. C. C. A-387.	

Chicago & Eastern Illinois Railroad Company.

Tariff No. 4000-B, I. C. C. 2781.	Tariff No. 4000, I. C. C. 2485.
Tariff No. 4580-B, I. C. C. 2782.	Tariff No. 4580, I. C. C. 2523.
Tariff No. 6300-B, I. C. C. 2790.	Tariff No. 6300, I. C. C. 2672.
Tariff No. 6400-B, I. C. C. 2791.	Tariff No. 6400, I. C. C. 2685.
Sup. 27 to 5400, I. C. C. 2582.	Tariff No. 5400, I. C. C. 2582.

Cincinnati, Hamilton & Dayton Railway Company.

Tariff No. 5190-C, I. C. C. 3035.	Tariff No. 5190-A, I. C. C. 2429.

Cleveland, Cincinnati, Chicago & St. Louis Railway Company.

Tariff No. 581-E, I. C. C. 6520.	Tariff No. 536-D, I. C. C. 4101.
Tariff No. 695-B, I. C. C. 6531.	Tariff No. 695, I. C. C. 5157.
Tariff No. 525-C, I. C. C. 6453.	Tariff No. 525-A, I. C. C. 6175.
Tariff No. 1480-A, I. C. C. 6532.	Tariff No. 1475-I, I. C. C. 6128.
Tariff No. 585-H, I. C. C. 6565.	Tariff No. 585-F, I. C. C. 5067.
Tariff No. 1101-E, I. C. C. 6570.	Tariff No. 1101-C, I. C. C. 6176.
Tariff No. 1156-G, I. C. C. 6582.	Tariff No. 1156-E, I. C. C. 6177.
Tariff No. 1610-B, I. C. C. 6499.	Tariff No. 1610, I. C. C. 4426.
	Tariff No. 1617-A, I. C. C. 4695.
Tariff No. 1703-F, I. C. C. 6533.	Tariff No. 1703-D, I. C. C. 6020.

1485 Illinois Central Railroad Company.

Trf. No. 1733-D, I. C. C. A-8737.	Trf. No. 2653-C, I. C. C. A-7721.
Trf. No. 11423-D, I. C. C. A-8769.	Trf. No. 11423-C, I. C. C. A-8619.
Trf. No. 9299-C, I. C. C. A-8750.	Trf. No. 9299-A, I. C. C. A-8090.
Trf. No. 4839-C, I. C. C. A-8713.	Trf. No. 4839-A, I. C. C. A-7300.
Trf. No. 2463-G, I. C. C. A-8701.	Trf. No. 2463-E, I. C. C. A-8353.
Trf. No. 199-G, I. C. C. A-8813.	Trf. No. 199-E, I. C. C. A-8203.
Trf. No. 1867-G, I. C. C. A-8719.	Trf. No. 1867-E, I. C. C. A-7689.
Trf. No. 427-G, I. C. C. A-8687.	Trf. No. 427-E, I. C. C. A-7688.
Trf. No. 87-G, I. C. C. A-8807.	Trf. No. 87-E, I. C. C. A-8231.
Trf. No. 1159-E, I. C. C. A-8740.	Trf. No. 1159-C, I. C. C. A-8047.
Trf. No. 2545-H, I. C. C. A-8732.	Trf. No. 2545-F, I. C. C. A-8050.
Trf. No. 6207-E, I. C. C. A-8791.	Trf. No. 6207-C, I. C. C. A-8083.
Trf. No. 2305-K, I. C. C. A-8810.	Trf. No. 2305-I, I. C. C. A-8358.
Trf. No. 6901-E, I. C. C. A-8787.	Trf. No. 6901-C, I. C. C. A-8198.
Trf. No. 10343-C, I. C. C. A-8771.	Trf. No. 10343-A, I. C. C. A-8315.
Trf. No. 6529-F, I. C. C. A-8858.	Trf. No. 6529-B, I. C. C. A-8362.
Trf. No. 5027-D, I. C. C. A-8812.	Trf. No. 5027-B, I. C. C. A-8059.
Trf. No. 7597-E, I. C. C. A-8770.	Trf. No. 7597-C, I. C. C. A-8295.
Trf. No. 11085-C, I. C. C. A-8780.	Trf. No. 11085-A, I. C. C. A-8381.
Trf. No. 1287-P, I. C. C. A-8776.	Trf. No. 1287-N, I. C. C. A-324.
Trf. No. 6383-D, I. C. C. A-8700.	Trf. No. 6383-B, I. C. C. A-7650.
Trf. No. 6433-D, I. C. C. A-8806.	Trf. No. 6433-B, I. C. C. A-7630.
Trf. No. 6711-C, I. C. C. A-8783.	Trf. No. 6711-A, I. C. C. A-7663.
Trf. No. 9333-C, I. C. C. A-8796.	Trf. No. 9333-A, I. C. C. A-8061.
Trf. No. 1571-D, I. C. C. A-8704.	Trf. No. 1571-B, I. C. C. A-8185.
Trf. No. 10109-C, I. C. C. A-8699.	Trf. No. 10109-A, I. C. C. A-8196.
Trf. No. 1929-I, I. C. C. A-8773.	Trf. No. 1929-G, I. C. C. A-8328.
Trf. No. 11231-B, I. C. C. A-8679.	Trf. No. C-4133, I. C. C. A-5701.
Trf. No. 1597-Z, I. C. C. A-8894.	Trf. No. 1597-V, I. C. C. A-8641.

Lake Erie & Western Railroad Company.

Tariff No. 57-D, I. C. C. 2616.	Tariff No. 57-B, I. C. C. 1986.
Tariff No. 1113-D, I. C. C. 2663.	Tariff No. 1113-B, I. C. C. 2253.

Litchfield & Madison Railway Company.

G. F. O. No. 2623, I. C. C. 115.	G. F. O. No. 671, I. C. C. 101.

Louisville & Nashville Railroad Company.

G. F. O. No. 2254, I. C. C. A-13223. G. F. O. No. 1401, I. C. C. A-11363.

1486 Minneapolis, St. Paul & Sault Ste. Marie Railway Company.

G. F. D. No. 16500, I. C. C. 3280, Sup. 12. G. F. D. No. 16500, I. C. C. 3280.

Mobile & Ohio Railroad Company.

Tariff No. 9700, I. C. C. A-1103. Tariff No. 7955, I. C. C. A-978.
Tariff No. 9701, I. C. C. A-1104. Tariff No. 5010, I. C. C. A-727.

Southern Railway Company.

Tariff No. C-1, I. C. C. C-1600. Tariff No. ..., I. C. C. C-1404.
Tariff No. C-4, I. C. C. C-1602. Tariff No. C-2, I. C. C. C-1527.

St. Louis, Iron Mountain & Southern Railway Company.

Tariff No. 400-E, I. C. C. A-2618. Tariff No. 400-D, I. C. C. A-1907.
Tariff No. 2768-C, I. C. C. A-2613. Tariff No. 2768-A, I. C. C. A-2276.

Toledo, St. Louis & Western Railroad Company.

Tariff No. 305-D, I. C. C. A-680. Tariff No. 305-B, I. C. C. A-285.
Sup. 1 to 1300-D, I. C. C. A-684. Tariff No. 1300-D, I. C. C. A-684.

Vandalia Railroad Company.

Tariff No. 47-D, I. C. C. 2756. Tariff No. 47-B, I. C. C. 2620.
Tariff No. 20-H, I. C. C. 2745. Tariff No. 20-F, I. C. C. 928.
Tariff No. 48-D, I. C. C. 2757. Tariff No. 48-B, I. C. C. 2616.
Tariff No. 35-D, I. C. C. 2752. Tariff No. 35-B, I. C. C. 2582.
Tariff No. 43-D, I. C. C. 2755. Tariff No. 43, I. C. C. 2388.
Tariff No. 34-C, I. C. C. 2751. Tariff No. 34-A, I. C. C. 2560.
Tariff No. 37-F, I. C. C. 2753. Tariff No. 37-D, I. C. C. 2604.
Tariff No. 33-C, I. C. C. 2750. Tariff No. 32-C, I. C. C. 2588.

1487 Wabash Railroad Company.

Tariff No. C-5865, I. C. C. 3846. Tariff No. 8604, I. C. C. 1474.
Tariff No. B-6835, I. C. C. 3728. Tariff No. 6835, I. C. C. 1027.
Tariff No. D-12874, I. C. C. 3877. Tariff No. B12874, I. C. C. 3654.
Tariff No. C-8581, I. C. C. 3869. Tariff No. 8581, I. C. C. 1461.
Tariff No. F-10415, I. C. C. 3872. Tariff No. D10415, I. C. C. 3644.
Tariff No. D-6249, I. C. C. 3879. Trfs. 6911-D6249, I. C. C. 2714-1042.
Tariff No. E-5891, I. C. C. 3811. Tariff No. C5891, I. C. C. 3257.
Tariff No. D-10936, I. C. C. 3829. Tariff No. B10936, I. C. C. 3008.
Tariff No. I-5811, I. C. C. 3863. Tariff No. F5811, I. C. C. 3206.
Tariff No. V-5311, I. C. C. 3862. Tariff No. 85311, I. C. C. 2902.
Tariff No. F-6217, I. C. C. 3747. Tariff No. D-6217, I. C. C. 1524.
Tariff No. D-6085, I. C. C. 3746. Tariff No. B-6085, I. C. C. 1438.
Tariff No. G-5654, I. C. C. 3745. Tariff No. E5654, I. C. C. 2973.
Tariff No. N-7758, I. C. C. 3936. Tariff No. L7758, I. C. C. 3134.
Sup. 9 to H-8245, I. C. C. 3126. Tariff No. H8245, I. C. C. 3126.
Sup. 43 to B-10194, I. C. C. 3007. Tariff No. B10194, I. C. C. 3007.
Tariff No. M-5036, I. C. C. 3917. Tariff No. K5036, I. C. C. 3588.
Tariff No. B-9198, I. C. C. 3681. Tariff No. 9198, I. C. C. 1945.
Tariff No. E10207, I. C. C. 3938. Tariff No. C10207, I. C. C. 2936.
Tariff No. D12433, I. C. C. 3876. Tariff No. A12433, I. C. C. 2950.
Tariff No. D-8939, I. C. C. 3731. Tariff No. B-8939, I. C. C. 2737.
Tariff No. H-6653, I. C. C. 3880. Tariff No. E-6653, I. C. C. 3220.

Toledo, Peoria & Western Railway Company.

I. C. C. 1143. I. C. C. 852.

Chicago, Indiana & Southern Railway Company.

Tariff No. G. F. O. 193-D, I. C. C. 1734.
Tariff No. G. F. O. 193-A, I. C. C. 1466.
Tariff No. G. F. O. 700-C, I. C. C. 1742.
Tariff No. G. F. O. 700, I. C. C. 1570.

E. B. Boyd's.

Tariff No. 503-E, I. C. C. A-521.
Tariff No. 503-C, I. C. C. A-357.
Tariff No. 500-I, I. C. C. A-518.
Tariff No. 500-G, I. C. C. A-426.
Tariff No. 501-F, I. C. C. A-519.
Tariff No. 501-D, I. C. C. A-309.
Tariff No. 511-B, I. C. C. A-527.
Tariff No. 511, I. C. C. A-291.
Sup. No. 35 to Tariff No. I. F. C.-I. C. C. 505.
Tariff No. I. F. C.-I. C. C. 505.

1488 E. Morris.

Tariff No. 174, I. C. C. 504.
Tariff No. 126-E, I. C. C. 351.
Sup. No. 35 to 65-C, I. C. C. 292.
Tariff No. 65-C, I. C. C. 292.

Minneapolis & St. Louis Railroad Company.

Tariff No. 650-C, I. C. C. B-155.
Tariff No. C. & A. 650-A, I. C. C. A-30.
Sup. 10 to 1178-B, I. C. C. B-32.
Tariff No. 1178-B, I. C. C. B-32.

That each and all of the passenger fares, as well as the class and commodity freight rates between St. Louis and each point in Illinois on each line of each defendant, are herein complained of.

Complainant states that its said members and the City of St. Louis and all residents and citizens thereof, by reason of the facts stated in the foregoing paragraphs, have been subjected to the payment of passenger fares and rates of transportation for freight which were when exacted, and still are, unjust and unreasonable (both absolutely and relatively), in violation of section 1 of the Act to Regulate Commerce, and unduly discriminatory and prejudicial in violation of Sections 2, 3 and 4 thereof; that the said rates between said St. Louis and said points in Illinois are so unjust, unreasonable and unduly prejudicial and discriminatory as to deprive the various shippers and consignees doing business at St. Louis, including the members of complainant, of the benefits which, under just, reasonable and non-discriminatory rates would be afforded to such shippers and consignees at said St. Louis, and in many instances such
1489 rates are absolutely prohibitive of any commerce between said St. Louis and said points in Illinois. As a result of said unlawful rates, Illinois and other competitors of said St. Louis shippers and consignees are given an undue advantage in said competitive territory in said State of Illinois.

Wherefore, complainant prays that defendants may be severally required to answer the charges herein; that after due hearing and investigation an order be made commanding said defendants and each of them to cease and desist from the aforesaid violations of said

Act to Regulate Commerce, and establish and put in force and apply as maxima in future to the transportation of passengers and freight between the shipping and destination points named in paragraph three hereof, in lieu of the interstate fares and rates named in said paragraph and herein complained of, such other fares and freight rates as the Commission may deem reasonable and just, and require of the defendant carriers herein to make a readjustment of said Illinois intrastate passenger, class and commodity rates in connection with passenger class and commodity interstate rates between St. Louis and Illinois points as will result in St. Louis and the members of complainant and shippers and receivers in freight being freed from unjust, unreasonable, discriminatory and unduly prejudicial rates, and that such other and further order or orders be made as
1490 the Commission may consider proper in the premises and complainant's cause may appear to require.

Dated at St. Louis, Missouri, June 4th, 1915.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS,
By J. W. COYLE, *Its Traffic Commissioner*, and
STEWART, BRYAN & WILLIAMS,
Its Attorneys.

The address of complainant is American Bank Building, St. Louis, Mo.

The address of complainant's attorneys is 1605-14 Pierce Building, St. Louis, Mo.

1491 Filed Jul- 6, 1915. Interstate Commerce Commission.

Before Interstate Commerce Commission.

Docket No. 8083.

BUSINESS MEN'S LEAGUE OF ST. LOUIS, MO.,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al.

Answer of Chicago, Peoria and St. Louis Railroad Company and Bluford Wilson and William Cotter, Receivers.

Now come Chicago, Peoria and St. Louis Railroad Company and Bluford Wilson and William Cotter, its Receivers, and, for answer unto the Complaint filed herein, on the 14th day of June, 1915, deny each and every allegation therein contained; and, further answering, deny that Complainants are entitled to the relief or any part thereof, therein prayed.

And these Respondents having fully answered, pray to be hence

dismissed with their reasonable costs in this behalf most wrongfully sustained.

CHICAGO, PEORIA AND ST. LOUIS
RAILROAD COMPANY,
BLUFORD WILSON AND
WILLIAM COTTER, Receivers.
By P. B. WARREN,
Their General Counsel.

1492 Filed Jul- 6, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

Docket 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS, Petitioner,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al., Respondents.

Answer.

Minneapolis, St. Paul & Sault Ste. Marie Railway Company for its separate answer to the above entitled petition admits, subject to verification from published tariffs, the rates set forth in the petition, but denies that the same are unjust, unreasonable, unlawful or discriminatory in any respect, and denies that petitioner is entitled to any relief in the premises; and prays that the petition may be dismissed.

MINNEAPOLIS, ST. PAUL & SAULT
STE. MARIE RAILWAY COMPANY,
By ALBERT H. LOSSON,
Its Commerce Counsel, Soo Line Building, Minneapolis.

1493 Filed Jul. 7, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS (a Corporation), Complainant,

v.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al., Defendants.

Answer of the Chicago and Alton Railroad Company.

The Chicago and Alton Railroad Company, by its attorneys, answering the above complaint respectfully submits:

I.

This defendant admits the allegations of paragraph 1 thereof and also the allegations of paragraph 2 thereof in so far as they refer to this defendant.

II.

This defendant has no knowledge of the allegations of paragraph 3 thereof and requires strict proof thereof, and refers to its published tariffs in effect as to its rates and denies that such rates are unjust, unlawful, discriminatory, or are in violation of the Act to Regulate Commerce, and denies that the complainant has been unjustly discriminated against.

Further answering, this defendant denies each and every allegation in said complaint not hereinbefore admitted, denied or otherwise answered.

Wherefore this defendant prays to be dismissed.

THE CHICAGO AND ALTON RAILROAD COMPANY,
By WINSTON, PAYNE, STRAWN, & SHAW,
Its Attorneys.

1494 Filed Jul- 12, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission, Washington, D. C.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS (a Corporation), Complainant,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, THE BALTIMORE & OHIO SOUTHWESTERN RAILROAD COMPANY, CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY, CHICAGO GREAT WESTERN RAILROAD COMPANY, CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY, CHICAGO, MILWAUKEE & GARY RAILWAY COMPANY, CHICAGO, PEORIA & ST. LOUIS RAILROAD COMPANY AND BLUFORD WILSON AND WM. COTTER, RECEIVERS; THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY AND H. U. MUDGE AND J. M. DICKINSON, RECEIVERS; CHICAGO, TERRE HAUTE & SOUTHEASTERN RAILWAY COMPANY, THE CHICAGO & ALTON RAILROAD COMPANY, CHICAGO AND EASTERN ILLINOIS RAILROAD COMPANY AND W. J. JACKSON, RECEIVER; CHICAGO & ILLINOIS MIDLAND RAILWAY COMPANY, THE CINCINNATI, HAMILTON & DAYTON RAILWAY COMPANY AND JUDSON HARMON AND RUFUS B. SMITH, RECEIVERS; THE CLEVELAND, CINCINNATI, CHICAGO & ST. LOUIS RAILWAY COMPANY, DEPUE & NORTHERN RAILROAD COMPANY, ELGIN, JOLIET & EASTERN RAILWAY COMPANY, THE HANOVER RAILWAY COMPANY, ILLINOIS CENTRAL RAILROAD COMPANY, THE ILLINOIS SOUTHERN RAILWAY COMPANY, ILLINOIS TERMINAL RAILROAD COMPANY, THE LAKE ERIE & WESTERN RAILROAD COMPANY, LITCHFIELD & MADISON RAILWAY COMPANY, LOUISVILLE & NASHVILLE RAILROAD COMPANY, THE MICHIGAN CENTRAL RAILROAD COMPANY, THE MINNEAPOLIS & ST. LOUIS RAILROAD COMPANY, MINNEAPOLIS, ST. PAUL & SAULT STE. MARIE RAILWAY COMPANY, MOBILE & OHIO RAILROAD COMPANY, PEORIA & PEKIN UNION RAILWAY COMPANY, PEORIA RAILWAY TERMINAL COMPANY, ROCK ISLAND SOUTHERN RAILWAY, SOUTHERN RAILWAY COMPANY, ST. LOUIS, IRON MOUNTAIN & SOUTHERN RAILWAY COMPANY, TOLEDO, ST. LOUIS & WESTERN RAILROAD COMPANY, AND W. L. ROSS, RECEIVER; VANDALIA RAILROAD COMPANY, THE WABASH RAILROAD COMPANY, AND E. B. PRYOR AND EDW. F. KEARNEY, RECEIVERS; THE WABASH, CHESTER & WESTERN RAILROAD COMPANY AND J. FRED GILSTER, RECEIVER; TOLEDO, PEORIA & WESTERN RAILWAY COMPANY, THE NEW YORK CENTRAL RAILROAD COMPANY, SOUTHERN ILLINOIS RAILWAY & POWER COMPANY, ST. LOUIS MERCHANTS BRIDGE TERMINAL RAILWAY COMPANY, TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS, WIGGINS FERRY COMPANY, Defendants.

The Joint and Several Answer of the Defendants, St. Louis Merchants Bridge Terminal Railway Company, Terminal Railroad Association of St. Louis and Wiggins Ferry Company.

The defendants, St. Louis Merchants Bridge Terminal Railway Company, Terminal Railroad Association of St. Louis and Wiggins

Ferry Company, come and for their joint and several answer
1495 state:

1st. That they are advised that the Business Men's League of St. Louis, complainant herein, is a corporation duly organized and existing under the laws of the State of Missouri, and has its offices in the City of St. Louis, Missouri, as in said complaint alleged, but these defendants are not advised as to the object of said League nor are they advised as to who constitutes its membership, or what proportion of the freight tonnage of St. Louis is originated and received by its members, as alleged in the first paragraph of said complainant, and in so far as the same may be material, ask proof thereof.

2d. The defendants, St. Louis Merchants Bridge Terminal Railway Company and Terminal Railroad Association of St. Louis are common carriers engaged in the transportation of freight by railroad between points in the State of Missouri and points in the State of Illinois, and the defendant, Wiggins Ferry Company, is a common carrier engaged in the transportation of freight by water between the City of St. Louis in the State of Missouri and the City of East St. Louis in the State of Illinois, and all of said defendants as such common carriers are subject to the provisions of the Act to Regulate Commerce, approved February 4th, 1887, and all acts amendatory thereof or supplemental thereto.

3d. These defendants admit that merchants, manufacturers, jobbers and others located in the City of St. Louis, Missouri, have been and are shippers of freight of the various classes and also of commodities from St. Louis in the State of Missouri, to points in the State of Illinois, and have been and are also consignees of various articles of freight shipped from various points in the State of Illinois to the City of St. Louis in the State of Missouri, but as to over what lines of the defendants named in said complaint said shipments are made these defendants are not advised; nor are these defendants advised as to whether or not such merchants, manufacturers, jobbers and other shippers of freight are members of the complainants,
1496 nor are these defendants advised as to whether or not members of the complainant as passengers travel over the lines of the defendants between the City of St. Louis, Missouri, and points in Illinois.

These defendants admit that the City of St. Louis has been and is in the 117 Per Cent Group of Official Classification Territory, but whether or not freight and passenger rates from the City of St. Louis to points in Illinois have been advanced as a result of this Commission's order and ruling in rates for passenger and freight in Official Classification Territory these defendants are not advised; nor are these defendants advised as to whether or not interstate passenger and freight rates between St. Louis and points in Illinois were, generally speaking, on the same general basis as the intrastate rates between points similarly situated in Illinois prior to the order and ruling of this Commission; nor are these defendants advised as to whether or not the passenger and freight rates of Illinois have been correspondingly advanced since the advance made in interstate rates as a result of the said ruling of this Commission; nor are these defendants

dvised as to whether or not the advance in interstate rates without a orresponding advance in Illinois State rates has worked a discrimination on inbound and outbound passenger and freight traffic between St. Louis, Missouri, and points in Illinois, as alleged in said omplaint. And as to all matters alleged in said paragraph three (3) f the complaint which these defendants do not admit and of which ney are not advised, as hereinabove set forth, they ask that proof be nade.

These defendants further answering said complaint, state the facts o be that these defendants have not, nor has any or either of them, led tariffs in relation to the transportation of passengers from the City of St. Louis in the State of Missouri to points in the
497 State of Illinois, nor from points in the State of Illinois to the City of St. Louis, Missouri, and therefore, the complaint with eference to transportation of passengers has no reference to these efendants or either of them.

Further answering said complaint with reference to transportation f passengers, these defendants state that they are not parties to the ariffs filed by their co-defendants mentioned in said complaint, and hat they are in no wise interested in the passenger rates mentioned n said tariffs.

These defendants further answering said complaint with reference o freight rates state the facts to be that they have not advanced heir rates since the order of this Commission referred to in said aragraph three (3) of the complaint, and that their freight rates nd charges are the same since said advance as they were prior thereo, and if there has been an advance in the interstate rates, as alleged n said complaint, said advance has been made and accomplished by imply advancing the rates of other carriers. In other words, these lefendants allege and state the facts to be that they make an indeendent charge for the transportation of freight from St. Louis, Missouri, to East St. Louis, Madison and Granite City in the State of llinois, and from the cities of Granite City, Madison and East St. ouis to the City of St. Louis, and that said independent charge was he same before said advance as it is now; and said alleged advance in nterstate rates was not accomplished by any change in the rates of hese defendants.

Wherefore, having fully answered said complaint, these defendants sk that same may be dismissed.

ST. LOUIS MERCHANTS BRIDGE TERMINAL RAILWAY COMPANY,
TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS, AND
WIGGINS FERRY COMPANY,
By T. M. PIERCE,
J. L. HOWELL,
KRAMER, KRAMER & CAMPBELL,
Their Attorneys.

1498 Filed July 12, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS (a Corporation), Complainant,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY et al.

Separate Answer.

The separate answer of the respondent, Chicago, Milwaukee & St. Paul Railway Company, to the petition of complainant in the above entitled proceeding, respectfully shows:

I.

Answering paragraph one, this respondent has not knowledge or information sufficient to verify the averments thereof, and, therefore, neither admits nor denies the same, but asks that strict proof thereof be required.

II.

Answering paragraph two, this respondent admits the allegations thereof in so far as they refer to this respondent.

III.

Answering paragraph three, this respondent says that if there are in effect discriminatory rates and fares providing for freight and passenger transportation within the State of Illinois, as in said paragraph three alleged, this respondent is willing to remove such discrimination by advancing any such preferential rates, should they be found in fact to exist as preferential rates to the damage of complainant.

1499 IV.

Further answering, this respondent denies each and every allegation in said complaint contained not hereinbefore admitted, denied or otherwise answered unto.

Wherefore, having fully answered petition of complainant in the above entitled proceeding, this respondent prays that it be dismissed hence.

Dated at Chicago, Illinois, July 9, 1915.

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY COMPANY,
By O. W. DYNES,
Its Commerce Counsel.

1500 Filed Jul- 14, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al.

Separate Answer of Chicago, Burlington & Quincy Railroad Company.

I.

Defendant is without information regarding the allegations of paragraph I of the complaint, and prays proof thereof if the same be deemed material.

II.

Defendant admits that it is a common carrier, subject to the Act to Regulate Commerce as amended.

III.

Answering paragraph III of the complaint, this defendant refers to its tariffs on file with this Honorable Commission as the best evidence of their contents and provisions, and answering all allegations in the said complaint contained relative to the lawful and published passenger and freight rates, this defendant at all times refers to the said tariffs on file with this Honorable Commission for verification thereof.

1501 Defendant is without information as to membership in the said complainant association as alleged in said paragraph III of the complaint, and prays proof thereof if the same be deemed material.

Defendant specifically denies that the passenger and freight rates complained of are unjust, or unreasonable, or unduly discriminatory, or in violation of the Act to Regulate Commerce as amended.

IV.

Except as herein admitted, this defendant denies each and every other allegation, matter and thing in the said complaint contained, not herein expressly admitted or otherwise answered.

Wherefore, having fully answered the said complaint, this defendant prays that the same may be dismissed as to it.

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY,

By R. B. SCOTT,

General Attorney.

I hereby certify I have served copy of the above and foregoing answer upon complainant by depositing same in a sealed envelope in the United States mail, postage prepaid, addressed to Messrs. Stewart, Bryan & Williams, Attorneys, 1605-14 Pierce Bldg., St. Louis, Mo.

By R. B. SCOTT,
General Attorney.

Chicago, Ill., July 12th, 1915, No. 547 West Jackson Blvd.

1502 Filed Jul- 14, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

I. C. C. Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS, a Corporation, Complainant,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al., Defendants.

Respondent, Louisville & Nashville Railroad Company, for answer to the petition in this proceeding, respectfully states:

I.

That it has no knowledge or information as to the allegations of this paragraph.

II.

That it admits it is a common carrier engaged in interstate commerce, and, as such, is subject to the provisions of the Act to Regulate Commerce, approved February 4, 1887, and acts amendatory thereof or supplementary thereto.

III.

That it admits that the merchants, manufacturers, jobbers, and others located in the City of St. Louis, are shippers and receivers of freight between St. Louis, Mo., and points within the State of Illinois.

That it neither affirms nor denies that the members of the
1503 Complain-t and the custompers of the members of the complain-t travel as passengers over the lines of defendant.

Respondent denies all other allegations of this paragraph, except that it prays leave to refer to and make a part of its answer the tariffs lawfully published, posted and on file with this honorable Commission for the correct rates between the points named and referred to in the petition.

Wherefore, Respondent avers that complainant is not entitled to

the relief prayed for, or to any relief whatever, and, having fully answered, prays to be hence dismissed.

LOUISVILLE & NASHVILLE
RAILROAD COMPANY,
By W. A. COLSTON,
W. A. NORTHCUTT,
Attorneys.

1504 Filed Jul- 14, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

I. C. C. Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS, Complainant,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al., Defendants.

Answer of Defendant, Chicago and Eastern Illinois Railroad, William J. Jackson, Receiver.

Now comes defendant above named, and, for its answer to the complaint filed herein, respectfully states:

1.

This defendant admits the allegations contained in Paragraph 1 of the complaint.

2.

This defendant admits it is a common carrier, engaged in the transportation of passengers and property, and, as such common carrier, is subject to the provisions of the Act to Regulate Commerce approved February 4th, 1887, and all acts amendatory thereof or supplementary thereto.

3.

This defendant has no knowledge respecting the truth or falsity of the allegations contained in Section 1 of Paragraph 3 of the complaint and can, therefore, neither admit nor deny the same; but leaves complainant to the strict proof thereof at the trial of this case.

This defendant has not checked the rates, referred to in Paragraph 3 of the complaint, and, can, therefore, neither admit
1505 nor deny the same; but this defendant denies that said complainant or residents and citizens of the City of St. Louis, Missouri, have been subjected to the payment of passenger fares and rates of transportation for freight which were when exacted, or still

are, unjust or unreasonable, in violation of Section 1 of the Act to Regulate Commerce; or unduly discriminatory or prejudicial in violation of Sections 2, 3 and 4 thereof; and denies further that the said rates between said City of St. Louis and the points in Illinois are so unjust, unreasonable or unduly prejudicial or discriminatory as to deprive the various shippers and consignees of doing business in St. Louis; and this defendant denies further that shippers in Illinois and other competitors of St. Louis shippers and consignees are given an undue advantage in the State of Illinois.

Wherefore, having fully answered, this defendant prays the dismissal of the complaint filed herein.

C. B. CARDY,
Attorney for Defendant, Chicago and Eastern Illinois Railroad, William J. Jackson, Receiver Thereof.

1506 Filed Jul- 15, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS (a Corporation), Complainant,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al., Defendants.

Answer of the Toledo, Peoria & Western Railway Company.

Now comes the defendant, Toledo, Peoria & Western Railway Company, by J. M. Elliott, its General Counsel, and for answer to the complaint of the above complainant, says:

First. Answering Paragraph 1, this defendant is not advised of the business of the complainant, save by said complaint, and therefore neither admits nor denies the allegations of Paragraph 1, but calls for proof.

Second. Answering Paragraph 2, this defendant admits that it is a carrier engaged in interstate commerce, and as such is subject to the Act to Regulate Commerce.

Third. Answering said complaint, this defendant is not advised of the matters and things in said complaint contained, save by said complaint and the tariffs insofar as they are on file with the Commission; and further answering, this defendant says that it is not guilty of any of the supposed acts set forth in said complaint; that it has not violated the terms and provisions of the Act to Regulate Commerce or the Acts amendatory thereof or supplementary thereto; and denies that the complainant is entitled to the relief in said

complaint prayed, or any part thereof; and denies that the complainant is entitled to any relief as against this defendant.

And now having fully answered, this defendant prays to be dismissed, etc.

TOLEDO, PEORIA & WESTERN RAILWAY COMPANY,
By J. M. ELLIOTT,
Its General Counsel.

STEVENS, MILLER & ELLIOTT,
Central National Bank Building,
Peoria, Illinois.

1507 Filed Jul- 17, 1915. Interstate Commerce Commission.

Interstate Commerce Commission.

I. C. C. Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS (a Corporation), Complainant,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al., Defendants.

Answer of the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, the Michigan Central Railroad Company, the Lake Erie & Western Railroad Company, the New York Central Railroad Company.

These respondents, for answer to the complaint in the above entitled cause, admit, subject to verification from published tariffs, the rates set forth in the complaint, but deny that the same are unjust or unreasonable, unlawful or discriminatory, in any respect; deny that complainant is entitled to any relief in the premises, and pray that the complaint may be dismissed.

By ERNEST S. BALLARD,
Commerce Counsel, 527 La Salle Station,
Chicago, Ill.

O. E. BUTTERFIELD,
Of Counsel.

Dated: July 15, 1915.

1508 Filed Jul- 17, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS, Complainant,

vs.

THE ATCHISON, TOPEKA & SANTA FE R. R. Co. et al., Respondents.

The respondent, Illinois Central Railroad Company, for its answer to the petition herein, respectfully states:

I.

It is without information sufficient to enable it either to admit or to deny the allegations contained in Section I of the petition, with respect to the nature of the complainant's organization and the business and transactions of its members.

II.

It admits that it is a common carrier engaged in interstate commerce, and as such is subject to the provisions of the Act to Regulate commerce, approved Feb. 4th, 1887, and acts amendatory thereof or supplementary thereto.

III.

It is without information sufficient to enable it either to admit or to deny the allegations contained in the first paragraph of Section III of the petition, with respect to the shipping transactions, and the travelings in interstate journeys, of complainant's members and the public generally, and it therefore demands proof thereof.

It admits that the City of St. Louis has been and is in the 117 percent group of the Official Classification territory; that as a result of the Interstate Commerce Commission's orders and rulings freight rates in Official Classification territory were recently advanced, and that as a part of such advances, the freight rates on interstate movement over the line of this respondent between St. Louis and points in Illinois were advanced, and it admits that likewise its interstate passenger fares between St. Louis and points in Illinois were ad-

vanced (to substantially 2½ cents per mile effective Decem-
1509 ber 1, 1914); and this respondent says that the Interstate Commerce Commission has permitted said interstate rates and fares to become effective; that they are now in full force and effect, and that they are just and reasonable.

Further answering the second paragraph of Section III of the petition, wherein it is alleged that since the taking effect of said inter-

state rates and fares, the intrastate rates and fares between points in Illinois have not been accordingly or proportionately advanced, this respondent respectfully states: (*a*) that it proposed to advance its intrastate-Illinois freight rates in the same measure and proportion as its interstate freight rates between St. Louis and points in Illinois were advanced, to-wit, by five per cent; that said interstate advances were allowed by the Interstate Commerce Commission to become effective, but that the operation of said proposed intrastate-Illinois freight rates has been suspended by order of the State Public Utilities Commission of Illinois; (*b*) that said interstate passenger fares (which are upon the basis of substantially 2½ cents per mile) were also allowed by the Interstate Commerce Commission to become effective; that the present intrastate-Illinois maximum passenger fare of 2 cents per mile was fixed by an act of the Illinois Legislature, entitled: "An Act to establish and regulate the maximum rate of charges for the transportation of passengers by corporations or companies operating or controlling railroads in part or in whole in this State, and to provide penalties for the violation of the provisions thereof, and repealing all Acts and parts of Acts in conflict herewith", approved May 27th, 1907 (Laws of Illinois, 1907, pp. 476-477); that this respondent and other respondents to this case applied to the Legislature of Illinois at its 1915 session and made diligent effort to obtain the repeal of said 2-cent maximum passenger fare statute; and it and other respondents caused to be introduced in both branches of said legislature, a bill having for its purpose the repeal of said statute and the enactment of a law fixing the maximum passenger fare at 2½ cents per mile; but that no action was taken by said legislature upon said bill and that the session has since adjourned; and (*c*) that this respondent's said proposed advanced intrastate-Illinois freight rates and that said 2½-cent per mile intrastate-Illinois maximum passenger fares are not unreasonable
1510 rates and fares, and would not be unreasonable rates and fares if they were allowed to take effect.

Further answering Section III of the petition, this respondent respectfully states that if, by reason of said advances in interstate freight rates and passenger fares between St. Louis and points in Illinois with no like advances effective in intrastate passenger fares and freight rates between points in Illinois, any undue discrimination has resulted on inbound and outbound passenger and freight traffic between St. Louis and points in Illinois, such discrimination is not the result of anything done or omitted to be done by this respondent in violation of any of the provisions of the Act to Regulate Commerce as amended, but is the result of said suspension order and state statute.

Further answering Section III of the petition, this respondent neither admits or denies the correctness of the tables of fares and rates therein set forth, because it has not checked them, and it respectfully asks that reference may be had to the tariffs from which said tables purport to have been copied. Said tariffs are themselves the best evidence.

Further answering Section III of the petition, this respondent

denies that any of the interstate passenger fares or freight rates applied or charged by it or in which it participates between St. Louis and points in Illinois, as complained of in said petition, is unjust or unreasonable in violation of Section 1 of the Act to Regulate Commerce, and it avers that said fares and rates are just and reasonable; and it denies that any of said interstate rates or fares is, by reason of anything done or omitted to be done by it, in violation of Sections 2, 3 or 4 of said Act. Further answering Section III of the petition, this respondent denies that said interstate rates and fares are unjustly discriminatory and avers that if in the circumstances any unjust discrimination or unlawfulness exists it is due to the said intrastate-Illinois rates and fares which the respondent has been prevented by State action from advancing as aforesaid and the correction of which should be by such order of the Interstate Commerce Commission as will require advances of said intrastate-Illinois fares and rates as proposed and attempted by this respondent.

1511 Further answering this respondent denies each and every allegation in said petition contained, not hereinbefore admitted, denied or otherwise answered unto.

Wherefore, this respondent prays that there may be a hearing and investigation on the above joined issues, that no reduction be required in said interstate rates and fares, and that if the Commission shall find that any unjust discrimination or other said unlawfulness exists, an order be made requiring advances in said intrastate-Illinois rates and fares as heretofore proposed and attempted by this respondent.

ILLINOIS CENTRAL RAILROAD COMPANY.
By A. P. HUMBURG,
Its Attorney.

R. V. FLETCHER,
Of Counsel.

1512 Filed Jul- 19, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS (a Corporation), Complainant,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, ST. LOUIS, Iron Mountain & Southern Railway Company et al., Respondents.

The separate answer of the respondent, St. Louis, Iron Mountain & Southern Railway Company, to the petition of complainant in the above entitled action, respectfully shows:

I.

That this respondent is without information sufficient to enable it either to admit or to deny the allegations contained in Section 1 of the petition, with respect to the nature of the complainant's organization and the business and transactions of its members.

II.

This respondent admits that it is a common carrier engaged in interstate commerce and as such is subject to the provisions of the Act to Regulate Commerce, approved February 4th, 1887, and acts amendatory thereof or supplementary thereto.

III.

This respondent is without information sufficient to enable it either to admit or to deny the allegations contained in the first paragraph of Section III of the petition, with respect to the shipping transactions, and the travelings in interstate journeys, of complainant's members and the public generally, and it therefore demands proof thereof.

Respondent admits that the City of St. Louis has been and is in the 117 per cent group of the Official Classification territory; that as a result of the Interstate Commerce Commission's orders 1513 and rulings freight rates in Official Classification territory were recently advanced, and that as a part of such advances, the freight rates on interstate movement over the line of this respondent between St. Louis and points in Illinois were advanced; and it admits that likewise its interstate passenger fares between St. Louis and points in Illinois were advanced (to substantially 2½ cents per mile effective December 1, 1914); and this respondent says that the Interstate Commerce Commission has permitted said interstate rates and fares to become effective; that they are now in full force and effect, and that they are just and reasonable.

Further answering the second paragraph of Section III of the petition, wherein it is alleged that since the taking effect of said interstate rates and fares, the intrastate rates and fares between points in Illinois have not been accordingly or proportionately advanced, this respondent respectfully states: (*a*) that it proposed to advance its intrastate-Illinois freight rates in the same measure and proportion as its interstate freight rates between St. Louis and points in Illinois were advanced, to-wit, by five per cent; that said interstate advances were allowed by the Interstate Commerce Commission to become effective, but that the operation of said proposed intrastate-Illinois freight rates has been suspended by order of the State Public Utilities Commission of Illinois; (*b*) that said interstate passenger fares (which are upon the basis of substantially 2½ cents per mile) were also allowed by the Interstate Commerce Commission to become effective; that the present intrastate-Illinois maximum passenger fare of 2 cents per mile was fixed by an act of the Illinois Legislature,

entitled: "An act to establish and regulate the maximum rate of charges for the transportation of passengers by corporations or companies operating or controlling railroads in part or in whole in this State, and to provide penalties for the violation of the provisions thereof, and repealing all Acts and parts of Acts in conflict herewith", approved May 27, 1907 (Laws of Illinois, 1907, pp. 476-477); that this respondent and other respondents to this case applied to the Legislature of Illinois at its 1915 session and made diligent
1514 effort to obtain the repeal of said 2-cent maximum passenger fare statute; and it and other respondents caused to be introduced in both branches of said legislature, a bill having for its purpose the repeal of said statute, and the enactment of a law fixing the maximum passenger fare at 2½ cents per mile; but that no action was taken by said legislature upon said bill and that the session has since adjourned; and (c) that this respondent's said proposed advanced intrastate-Illinois freight rates and that said 2½-cent per mile intrastate-Illinois maximum passenger fares are not unreasonable rates and fares, and would not be unreasonable rates and fares if they were allowed to take effect.

Further answering Section III of the petition, this respondent respectfully states that if, by reason of said advances in interstate freight rates and passenger fares between St. Louis and points in Illinois with no like advances effective in intrastate passenger fares and freight rates between points in Illinois, any undue discrimination has resulted on inbound and outbound passenger and freight traffic between St. Louis and points in Illinois, such discrimination is not the result of anything done or omitted to be done by this respondent in violation of any of the provisions of the Act to Regulate Commerce as amended, but is the result of said suspension order and state statute.

Further answering Section III of the petition, this respondent neither admits or denies the correctness of the tables of fares and rates therein set forth, because it has not checked them, and it respectfully asks that reference may be had to the tariffs from which said tables purport to have been copied. Said tariffs are themselves the best evidence.

Further answering Section III of the petition, this respondent denies that any of the interstate passenger fares or freight rates applied or charged by it or in which it participates between St. Louis and points in Illinois, as complained of in said petition, is unjust or unreasonable in violation of Section 1 of the Act to Regulate
1515 Commerce, and it avers that said fares and rates are just and reasonable; and it denies that any of said interstate rates of fares is, by reason of anything done or omitted to be done by it, in violation of Section 2, 3 or 4 of said Act. Further answering Section III of the petition, this respondent denies that said interstate rates and fares are unjustly discriminatory and avers that if in the circumstances any unjust discrimination or unlawfulness exists it is due to the said intrastate-Illinois rates and fares which the respondent has been prevented by State action from advancing as aforesaid and the correction of which should be by such order of the

Interstate Commerce Commission as will require advances of said intrastate-Illinois fares and rates as proposed and attempted by this respondent.

Further answering, this respondent denies each and every allegation in said petition contained, not hereinbefore admitted, denied, or otherwise answered unto.

Wherefore, this respondent prays that there may be a hearing and investigation on the above joined issues, that no reduction be required in said interstate rates and fares, and that if the Commission shall find that any unjust discrimination or other said unlawfulness exists, an order be made requiring advances in said intrastate-Illinois rates and fares as heretofore proposed and attempted by this respondent.

ST. LOUIS, IRON MOUNTAIN & SOUTHERN RAILWAY COMPANY,
By HENRY G. HERBEL,
FRED C. WRIGHT, *Attorneys.*

1516 Filed July 19, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

No. 8083.

BUSINESS MEN'S LEAGUE OF ST. LOUIS, MISSOURI,

v.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY et al.

Separate Answer of the Atchison, Topeka and Santa Fe Railway Company.

For separate answer to the complaint in the above entitled proceeding The Atchison, Topeka and Santa Fe Railway Company says:

That it admits the averments of paragraph II, that it is a common carrier over its own lines of railway, but as to all other averments of said complaint it states it is without information and it, therefore, denies the same and asks for strict proof thereof.

Further answering, it denies any and all violation of the provisions of the Act to Regulate Commerce.

Therefore it asks that the complaint be dismissed as to it.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY,
By ROBERT DUNLAP,
K. J. HORTON, *Its Attorneys.*

Chicago, July 16, 1915.

1517 Filed Jul. 21, 1915. Interstate Commerce Commission.

Interstate Commerce Commission. Received Jul. 16, 1915. Division of Mails and Files.

Formal Complaint, Jul. 23, 1915. 8083.

The Illinois Southern Railway Company,

Mercantile National Bank Building, Saint Louis.

Jul. 16, 1915 (954280). E. S. White, Gen'l Frt. and Pass. Agent.

JULY 14, 1915.

Mr. Geo. B. McGinty, Secy. Interstate Commerce Commission, Washington, D. C.:

DEAR SIR: Referring to your letter of June 22nd in connection with I. & S. No. 8083.

As this company is not an initial St. Louis-East St. Louis line we feel that it is unnecessary at this time for us to elaborate with reference to complaint in question and trust you will accept this in lieu of a formal answer.

Yours truly,

E. S. WHITE,
General Freight Agent,

R. S. S.

1518 Filed Jul. 21, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS, Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE R. R. Co. et al., Respondents.

The respondent, Chicago, Terre Haute and Southeastern Railway Company, for its answer to the petition herein, respectfully states:

I.

It is without information sufficient to enable it either to admit or to deny the allegations contained in Section I of the petition, with respect to the nature of the complainant's organization and the business and transactions of its members.

II.

It admits that it is a common carrier engaged in interstate commerce, and as such is subject to the provisions of the Act to Regulate Commerce, approved February 4th, 1887, and acts amendatory thereof or supplementary thereto.

III.

It is without information sufficient to enable it either to admit or to deny the allegations contained in the first paragraph of Section III of the petition, with respect to the shipping transactions, and the traveling in interstate journeys, of complainant's members, and the public generally, and it therefore demands proof thereof.

It admits that the City of St. Louis has been and is in the 117 percent group of the Official Classification territory; that as a result of the Interstate Commerce Commission's orders and rulings freight rates in Official Classification territory were recently advanced, and that as a part of such advances, the freight rates on interstate movements over the line of this respondent between St. Louis and
1519 points in Illinois were advanced; and this respondent says that the Interstate Commerce Commission has permitted said interstate rates to become effective; that they are now in full force and effect, and that they are just and reasonable.

Further answering the second paragraph of Section III of the petition, wherein it is alleged that since the taking effect of said interstate rates, the intrastate rates between points in Illinois have not been accordingly or proportionately advanced, this respondent respectfully states; that it proposed to advance its intrastate-Illinois freight rates in the same measure and proportion as its interstate freight rates between St. Louis and points in Illinois were advanced, to-wit, by five percent; that said interstate advances were allowed by the Interstate Commerce Commission to become effective, but that the operation of said proposed intrastate-Illinois freight rates has been suspended by order of the State Public Utilities Commission of Illinois.

Further answering Section III of the petition, this respondent respectfully states that if, by reason of said advances in interstate freight rates between St. Louis and points in Illinois with no like advances effective in intrastate passenger fares and freight rates between points in Illinois, any undue discrimination has resulted on inbound and outbound passenger and freight traffic between St. Louis and points in Illinois, such discrimination is not the result of anything done or omitted to be done by this respondent in violation of any of the provisions of the Act to Regulate Commerce, as amended, but is the result of said suspension order and state statute.

Further answering Section III of the petition, this respondent neither admits nor denies the correctness of the tables of fares and rates therein set forth, because it has not checked them, and it respectfully asks that reference may be had to the tariffs from which

said tables purport to have been copied. Said tariffs are themselves the best evidence.

1520 Further answering Section III of the petition, this respondent denies that any of the interstate freight rates applied or charged by it or in which it participates between St. Louis and points in Illinois, as complained of in said petition, are unjust or unreasonable in violation of Section I of the Act to Regulate Commerce, and it avers that said rates are just and reasonable; and it denies that any of said interstate rates are, by reason of anything done or omitted to be done by it, in violation of Sections 2, 3 or 4 of said Act. Further answering Section III of the petition, this respondent denies that said interstate rates are unjustly discriminatory and avers that if in the circumstances any unjust discrimination or unlawfulness exists it is due to the said intrastate-Illinois rates which the respondent has been prevented by State action from advancing as aforesaid and the correction of which should be by such order of the Interstate Commerce Commission as will require advances of said intrastate-Illinois fares and rates as proposed and attempted by this respondent.

Further answering, this respondent denies each and every allegation in said petition contained, not hereinbefore admitted, denied or otherwise answered unto.

Wherefore, this respondent prays that there may be a hearing and investigation on the above joined issues, that no reduction be required in said interstate rates, and that if the Commission shall find that any unjust discrimination or other said unlawfulness exists, an order be made requiring advances in said intrastate-Illinois rates as heretofore proposed and attempted by this respondent.

CHICAGO, TERRE HAUTE AND SOUTH-EASTERN RAILWAY COMPANY,
By W. F. PETER, *Its Attorney.*

1521 Filed Jul. 28, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS (a Corporation), Complainant,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al., Respondents.

Answer of Elgin, Joliet & Eastern Railway Company.

The respondent Elgin, Joliet & Eastern Railway Company for its answer to the petition herein respectfully states:

1. It is without information sufficient to enable it either to admit or to deny the allegations contained in Section I of the petition,

with respect to the nature of the complainant's organization and the business and transactions of its members.

2. It admits that it is a common carrier engaged in interstate commerce, and as such is subject to the provisions of the Act to Regulate Commerce, approved February 4, 1887, and acts amendatory thereof or supplementary thereto.

3. It is without information sufficient to enable it either to admit or to deny the allegations contained in the first paragraph of Section III of the petition with respect to the shipping transactions of complainant's members and the public generally, and it therefore demands proof thereof.

It admits that the City of St. Louis has been and is in the 117 per cent group of the Official Classification; that as a result of the
1522 Interstate Commerce Commission's orders and rulings freight rates in Official Classification territory were recently advanced, and that as a part of such advances, the freight rates on interstate movement over the line of this respondent between St. Louis and points in Illinois were advanced, and this respondent says that the Interstate Commerce Commission has permitted said interstate rates to become effective; that they are now in full force and effect and that they are just and reasonable.

Further answering the second paragraph of Section III of the petition, wherein it is alleged that since the taking effect of said interstate rates, the intrastate rates between points in Illinois have not been accordingly or proportionately advanced, this respondent respectfully states that it proposed to advance its intrastate-Illinois freight rates in the same measure and proportion as its interstate freight rates between St. Louis and points in Illinois were advanced, to-wit, by five per cent; that said interstate advances were allowed by the Interstate Commerce Commission to become effective, but that the operation of said proposed intrastate-Illinois freight rates has been suspended by order of the State Public Utilities Commission of Illinois; that this respondent's said proposed advanced intrastate-Illinois freight rates are not unreasonable rates and would not be unreasonable rates if they were allowed to take effect.

Further answering Section III of the petition, this respondent respectfully states that if, by reason of said advances in interstate freight rates between St. Louis and points in Illinois with no like advances in freight rates between points in Illinois, any undue discrimination has resulted on inbound and outbound freight
1523 traffic between St. Louis and points in Illinois, such discrimination is not the result of anything done or omitted to be done by this respondent in violation of any of the provisions of the Act to Regulate Commerce as amended, but is the result of said suspension order and state statute.

Further answering Section III of the petition, this respondent neither admits nor denies the correctness of the tables of rates therein set forth because it has not checked them, and it respectfully asks that reference may be had to the tariffs from which said tables purport to have been copied. Said tariffs are themselves the best evidence,

Further answering Section III of the petition, this respondent denies that any of the freight rates applied or charged by it or in which it participates between St. Louis and points in Illinois, as complained of in said petition, are unjust or unreasonable in violation of Section I of the Act to Regulate Commerce, and it avers that said rates are just and reasonable; and it denies that any of the said interstate rates are, by reason of anything done or omitted to be done by it, in violation of Sections 2, 3 or 4 of said Act.

Further answering Section III of the petition, this respondent denies that interstate rates are unjustly discriminatory, and avers that if in the circumstances any unjust discrimination or unlawfulness exists, it is due to the said intrastate-Illinois rates which the respondent has been prevented by State action from advancing as aforesaid and the correction of which should be by such order of the Interstate Commerce Commission as will require advances of
1524 said intrastate-Illinois rates as proposed and attempted by this respondent.

Further answering, this respondent denies each and every allegation in said petition contained, not hereinbefore admitted, denied or otherwise answered unto.

Wherefore, this respondent prays that there may be a hearing and investigation on the above joined issues, and that no reduction be required in said interstate rates, and that if the Commission shall find that any unjust discrimination or other said unlawfulness exists, an order be made requiring advances in said intrastate-Illinois rates as heretofore proposed and attempted by this respondent.

Respectfully submitted,

ELGIN, JOLIET & EASTERN RAILWAY COMPANY,

By W. L. LOUIS, *Its Traffic Manager.*

1525 Filed Jul. 27, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS (a Corporation), Complainant,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al., Defendants.

Answer of the Baltimore and Ohio Southwestern Railroad Company.

The defendant, The Baltimore and Ohio Southwestern Railroad Company, for its answer to the petition, respectfully states:

I.

It is without information sufficient to enable it either to admit or to deny the allegations contained in Section 1 of the petition, with

respect to the nature of the complainant's organization and the business and transactions of its members.

II.

It admits that it is a common carrier engaged in interstate commerce, and as such is subject to the provisions of the Act to Regulate Commerce, approved February 4th, 1887, and acts amendatory thereof or supplementary thereto.

III.

It is without information sufficient to enable it either to admit or to deny the allegations contained in the first paragraph of Section III of the petition, with respect to the shipping transactions, and the travelings in interstate journeys, of complainant's members and the public generally, and it therefore demands proof thereof.

It admits that the City of St. Louis has been and is in the 117 per cent. group of the Official Classification territory; that as a result of the Interstate Commerce Commission's orders and rulings 1526 freight rates in Official Classification territory were recently advanced, and that as a part of such advances, the freight rates on interstate movement over the line of this defendant between St. Louis and points in Illinois were advanced; and it admits that likewise its interstate passenger fares between St. Louis and points in Illinois were advanced (to substantially 2½ cents per mile effective December 1, 1914); and this defendant says that the Interstate Commerce Commission has permitted said interstate rates and fares to become effective; that they are now in full force and effect, and that they are just and reasonable.

Further answering the second paragraph of Section III of the petition, wherein it is alleged that since the taking effect of said interstate rates and fares, the intrastate rates and fares between points in Illinois have not been accordingly or proportionately advanced, this defendant respectfully states: (*a*) that it proposed to advance its intrastate—Illinois freight rates in the same measure and proportion as its interstate freight rates between St. Louis and points in Illinois were advanced, to-wit, by five per cent; that said interstate advances were allowed by the Interstate Commerce Commission to become effective, but that the operation of said proposed intrastate—Illinois freight rates has been suspended by order of the State Public Utilities Commission of Illinois; (*b*) that said interstate passenger fares (which are upon the basis of substantially 2½ cents per mile) were also allowed by the Interstate Commerce Commission to become effective; that the present intrastate-Illinois maximum passenger fare of 2 cents per mile was fixed by an act of the Illinois Legislature, entitled: "An Act to establish and regulate the maximum rate of charges for the transportation of passengers by corporations or companies operating or controlling railroads in part or in whole in this State, and to provide penalties for the violation of the provisions

thereof, and repealing all Acts and parts of Acts in conflict
1527 herewith," approved May 27, 1907 (Laws of Illinois, 1907, pages 476–477); that this defendant and other defendants to this case applied to the Legislature of Illinois at its 1915 session and made diligent effort to obtain the repeal of said 2-cent maximum passenger fare statute; and it and other defendants caused to be introduced in both branches of said Legislature, a bill having for its purpose the repeal of said statute and the enactment of a law fixing the maximum passenger fare at 2½ cents per mile; but that no action was taken by said Legislature upon said bill and that the session has since adjourned; and (c) that this defendant's said proposed advanced intrastate-Illinois freight rates and that said 2½ cent per mile intrastate-Illinois maximum passenger fares are not unreasonable rates and fares, and would not be unreasonable rates and fares if they were allowed to take effect.

Further answering Section III of the petition, this defendant respectfully states that if, by reason of said advances in interstate freight rates and passenger fares between St. Louis and points in Illinois with no like advances effective in intrastate passenger fares and freight rates between points in Illinois, any undue discrimination has resulted on inbound and outbound passenger and freight traffic between St. Louis and points in Illinois, such discrimination is not the result of anything done or omitted to be done by this defendant in violation of any of the provisions of the Act to Regulate Commerce as amended, but is the result of said suspension order and state statute.

Further answering Section III of the petition, this defendant neither admits or denies the correctness of the tables of fares and rates therein set forth, because it has not checked them, and it respectfully asks that reference may be had to the tariffs from which said tables purport to have been copied. Said tariffs are themselves the best evidence.

Further answering Section III of the petition, this defendant denies that any of the interstate passenger fares or freight
1528 rates applied or charged by it or in which it participates between St. Louis and points in Illinois, as complained of in said petition, is unjust or unreasonable in violation of Section 1 of the Act to Regulate Commerce, and it avers that said fares and rates are just and reasonable; and it denies that any of said interstate rates or fares is, by reason of anything done or omitted to be done by it, in violation of Sections 2, 3 or 4 of said Act. Further answering Section III of the petition, this defendant says that if in the circumstances any unjust discrimination or unlawfulness exists, it is due to the said intrastate-Illinois rates and fares which the defendant has been prevented by State action from advancing as aforesaid and the correction of which should be by such order of the Interstate Commerce Commission as will require advances of said intrastate-Illinois fares and rates as proposed and attempted by this defendant.

Further answering, this defendant denies each and every allegation in said petition contained, not hereinbefore admitted, denied or otherwise answered unto, in so far as the same charges this de-

fendant with causing discrimination which it is within the power of this defendant to avoid.

Wherefore, this defendant prays that there may be a hearing and investigation on the above joined issues, that no reduction be required in said interstate rates and fares, and that if the Commission shall find that any unjust discrimination or other said unlawfulness exists, an order be made requiring advances in said intrastate-Illinois rates and fares as heretofore proposed and attempted by this defendant.

THE BALTIMORE AND OHIO SOUTHWESTERN RAILROAD COMPANY,
By EDWARD BARTON,
General Attorney.

Dated at Cincinnati, Ohio, July 26th, 1915.

1529 Field Jul- 28, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS, Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY et al., Respondents.

Answer of Respondent, Toledo, St. Louis and Western Railroad Company.

The respondent, Toledo, St. Louis and Western Railroad Company, for its answer to the petition herein, respectfully shows as follows:

1. On the twenty-second day of October, 1914, in an action pending in the United States District Court for the Northern District of Ohio, Western Division, entitled: Horatio C. Creith, plaintiff, vs. Toledo, St. Louis and Western Railroad Company, defendant, one Walter L. Ross was, by an order duly made and entered by said Court, appointed receiver of all of the assets and property of this respondent. Said receiver duly qualified by giving bond as required by the said order of his appointment, and immediately took possession of and has since held possession of all of the assets and property of this respondent, including its railroad.

1530 2. This respondent has not, since the said twenty-second day of October, 1914, operated, and is not now operating, Toledo, St. Louis and Western Railroad, and has not since that time acted, and is not now acting, as a common carrier by railroad.

Wherefore respondent prays that it may be hence dismissed, with its costs.

TOLEDO, ST. LOUIS AND WESTERN RAILROAD COMPANY,
By CLARENCE BROWN,
CHAS. EDMUNDSON,
Its Attorneys.

1531 Filed Jul- 28, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS, Complainant,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY et al., Respondents.

Answer of Respondent, Walter L. Ross, Receiver of Toledo, St. Louis and Western Railroad Company.

The respondent, Walter L. Ross, receiver of Toledo, St. Louis and Western Railroad Company, for his answer to the petition herein, respectfully states:

1. He is without information sufficient to enable him either to admit or to deny the allegations contained in section one (1) of the petition, with respect to the nature of the complainant's organization and the business and transaction of its members.

2. He admits that he is a common carrier engaged in interstate commerce, and as such is subject to the provisions of the Act to Regulate Commerce, approved February 4th, 1887, and acts amendatory thereof or supplementary thereto.

1532 3. He is without information sufficient to enable him either to admit or to deny the allegations contained in the first paragraph of section III of the petition, with respect to the shipping transactions, and the travelings in interstate journeys, of complainant's members and the public generally, and he therefore demands proof thereof.

4. He admits that the City of St. Louis has been and is in the 117 per cent group of the Official Classification territory; that as a result of the Interstate Commerce Commission's orders and rulings freight rates in Official Classification territory were recently advanced, and that as a part of such advances, the freight rates on interstate movement over the line of this respondent between St. Louis and points in Illinois were advanced; and he admits that likewise his interstate passenger fares between St. Louis and points in Illinois were advanced (to substantially 2½¢ per mile, effective December 1, 1914); and this respondent says that the Interstate Commerce Commission

has permitted said interstate rates and fares to become effective; that they are now in full force and effect, and that they are just and reasonable.

5. Further answering the second paragraph of Section III of the petition, wherein it is alleged that since the taking effect of said interstate rates and fares, the intrastate rates and fares between points in Illinois have not been accordingly or proportionately advanced, this respondent respectfully states:

(*a*) That he proposed to advance his intrastate-Illinois freight rates in the same measure and proportion as his interstate freight rates between St. Louis and points in Illinois were advanced,
1533 to-wit: by five per cent; that said interstate advances were allowed by the Interstate Commerce Commission to become effective, but that the operation of said proposed intrastate-Illinois freight rates has been suspended by order of the State Public Utilities Commission of Illinois.

(*b*) That said interstate passenger fares (which are upon the basis of substantially 2½¢ per mile) were also allowed by the Interstate Commerce Commission to become effective; that the present intrastate-Illinois maximum passenger fare of 2 cents per mile was fixed by an act of the Illinois Legislature, entitled: "An Act to Establish and Regulate the Maximum Rate of Charges for the Transportation of Passengers by Corporations or Companies operating or controlling Railroads in part or in whole in this State, and to provide Penalties for the Violation of the Provisions thereof, and repealing all Acts and parts of Acts in conflict herewith", approved May 27th, 1907 (Laws of Illinois, pp. 476-477); that this respondent and other respondents to this case applied to the Legislature of Illinois at its 1915 session and made diligent effort to obtain the repeal of said 2-cent maximum passenger fare statute; and he and other respondents caused to be introduced in both branches of said legislature, a bill having for its purpose the repeal of said statute and the enactment of a law fixing the maximum passenger fare at 2½¢ per mile; but that no action was taken by said legislature upon said bill and that the session has since adjourned; and

(*c*) That this respondent's said proposed advanced intrastate-Illinois freight rates and that said 2½-cent per mile intrastate-Illinois maximum passenger fares are not unreasonable rates and fares, and would not be unreasonable rates and fares if they were allowed to take effect.

1534 6. Further answering Section III of the petition, this respondent respectfully states that if, by reason of said advances in interstate freight rates and passenger fares between St. Louis and points in Illinois with no like advances effective in intrastate passenger fares and freight rates between points in Illinois, any unequal discrimination has resulted on inbound and outbound passenger and freight traffic between St. Louis and points in Illinois, such discrimination is not the result of anything done or omitted to be done by this respondent in violation of any of the provisions of the Act to Regulate Commerce, as amended, but is the result of said suspension order and state statute.

7. Further answering Section III of the petition, this respondent neither admits nor denies the correctness of the tables of fares and rates therein set forth, because he has not checked them, and he respectfully asks that reference may be had to the tariffs from which said tables purport to have been copied. Said tariffs are themselves the best evidence.

8. Further answering Section III of the petition, this respondent denies that any of the interstate passenger fares or freight rates applied or charged by him or in which he participates between St. Louis and points in Illinois, as complained of in said petition, are unjust or unreasonable in violation of Section 1 of the Act to Regulate Commerce, and he avers that said fares and rates are just and reasonable; and he denies that any of said interstate rates or fares are, by reason of anything done or omitted to be done by him, in violation of Sections 2, 3, or 4 of said Act.

1535 9. Further answering Section III of the petition, this respondent denies that said interstate rates and fares are unjustly discriminatory and avers that if in the circumstances any unjust discrimination or unlawfulness exists it is due to the said intrastate-Illinois rates and fares which the respondent has been prevented by State action from advancing as aforesaid and the correction of which should be by such order of the Interstate Commerce Commission as will require advances of said intrastate-Illinois fares and rates, as proposed and attempted by this respondent.

10. Further answering, this respondent denies each and every allegation in said petition contained, not hereinbefore admitted, denied or otherwise answered unto.

Wherefore this respondent prays that there may be a hearing and investigation on the above joined issues; that no reduction be required in said interstate rates and fares, and that if the Commission shall find that any unjust discrimination or other said unlawfulness exists, an order be made requiring advances in said intrastate-Illinois rates and fares, as heretofore proposed and attempted by this respondent.

WALTER L. ROSS,
Receiver of Toledo, St. Louis and Southwestern Railroad Company.
By CLARENCE BROWN,
CHAS. EDMUNDSON,
His Attorneys.

1536 Filed Aug. 5, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al.

The Joint and Several Answer of the Mobile & Ohio Railroad Company, and the Southern Railway Company to the petition filed in the above entitled proceeding.

For answer to said petition respondents say as follows:

Respondents refer to and adopt as their answer to said petition the separate answer of the Illinois Central Railroad Company heretofore filed.

And having fully answered respondents pray to be hence dismissed, etc.

R. WALTON MOORE, *Special Counsel.*

1537 Filed Aug. 9, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS (a Corporation), Complainant,

vs.

ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al., Defendants.

Answer of the Cincinnati, Hamilton and Dayton Railway Company and Judson Harmon and Rufus B. Smith, Receivers.

The defendants, The Cincinnati, Hamilton and Dayton Railway Company, and Judson Harmon and Rufus B. Smith, its Receivers, for answer to the petition herein respectfully show:

1. They are without information sufficient to enable them to either admit or deny the allegations contained in Section I of the petition, with respect to the nature of the complainant's organization and the business and transactions of its members.

2. They admit that they are common carriers engaged in interstate commerce and as such amenable to all lawful acts for the regulation thereof.

3. They are without information sufficient to enable them either to admit or deny the allegations contained in the first paragraph of Section III of the petition, with respect to the shipping transactions and the travels in interstate journeys of complainant's members and the public generally and they, therefore, demand proof thereof.

They admit that the City of St. Louis has been and is in the 117% group of the Official Classification Territory; that as a result of the Interstate Commerce Commission's order and rulings freight rates in Official Classification Territory were recently advanced and that as a part of such advances the freight rates on interstate
1538 movements over the line of the defendants and their connecting carriers between St. Louis and points in Illinois were advanced and they admit that likewise the interstate passenger fares between St. Louis and points in Illinois were advanced to substantially two and one-half cents (2½c.) per mile, effective December 1st, 1914, and these defendants say that the Interstate Commerce Commission has permitted said interstate rates and fares to become effective; that they are now in full force and effect and that they are just and reasonable.

Further answering the second paragraph of Section III of the petition wherein it is alleged that since the taking effect of said interstate rates and fares, the intrastate rates and fares between points in Illinois have not been accordingly or proportionately advanced, these defendants respectfully state (*a*) that they proposed to advance their intrastate-Illinois freight rates in the same measure as their interstate freight rates between St. Louis and points in Illinois were advanced, to-wit, by 5%; that said interstate advances were allowed by the Interstate Commerce Commission to become effective, but that the operation of said proposed intra-state-Illinois freight rates has been suspended by order of the State Public Utilities Commission of Illinois; (*b*) that said interstate passenger fares (which are upon the basis of substantially 2⅝c. per mile) were also allowed by the Interstate Commerce Commission to be effective; that the present intrastate-Illinois maximum passenger fare of 2c. per mile was fixed by an Act of the Illinois Legislature entitled, "An Act to establish and regulate the maximum rate of charges for the transportation of passengers by corporations and companies operating or controlling railroads in part or in whole in this State and to provide penalties for the violation of the provisions thereof and repealing all Acts and parts of Act in conflict herewith," Approved May 27th, 1907 (Laws of Illi-
1539 nois, 1907, pages 476, 477); that these and the other defendants to this case applied to the Legislature of Illinois at its 1915 Session and made diligent effort to obtain the repeal of said 2c. maximum passenger fare statute and these and other defendants caused to be introduced in both branches of said Legislature a bill having for its purpose the repeal of said statute and the enactment of a law fixing the maximum passenger fare at 2½c. per mile, but that no action was taken by said Legislature upon said bill and that the Session has since adjourned, and (*c*) that these defendants' said proposed advanced intrastate-Illinois freight rates and that said 2½c. per mile intrastate-Illinois maximum passenger fares are not unreason-

able rates and fares and would not be unreasonable rates and fares if they were allowed to take effect.

Further answering said Section III of this petition, these defendants respectfully state that if by reason of said advances in interstate freight rates and passenger fares between St. Louis and points in Illinois with no like advances effective in intrastate passenger fares and freight rates between points in Illinois, any undue discrimination has resulted in inbound and outbound passenger and freight traffic between St. Louis and points in Illinois, such discrimination is not the result of anything done or omitted to be done by these defendants, in violation of any of the provisions of the Act to regulate commerce, as amended, but is the result of said suspension order and said statute.

Further answering Section III of the petition, these defendants neither admit nor deny the correctness of the tables of fares and rates therein set forth, because they have not checked them and they respectfully ask that reference may be had to the tariffs from which said tables purport to have been copied. Said tariffs are themselves the best evidence.

Further answering Section III of the petition these defendants deny that any of the interstate passenger fares or freight rates
1540 applied or charged by them, or in which they participate between St. Louis and points in Illinois as complained of in said petition, are unjust or unreasonable, in violation of Section I of the Act to regulate commerce and they aver that said fares and rates are just and reasonable and deny that any of said interstate rates or fares are, by reason of anything done or omitted to be done by them, in violation of Sections II, III or IV of said Act.

Further answering Section III of the petition, these defendants say that if in the circumstances any unjust discrimination or unlawfulness exists, it is due to the said intrastate-Illinois rates and fares which the defendants have been prevented by State action from advancing as aforesaid, and the correction of which should be by such order of the Interstate Commerce Commission as will require advances of said intrastate-Illinois fares and rates as proposed and attempted by these defendants.

Further answering, these defendants deny each and every allegation in said petition contained not hereinbefore admitted, denied or otherwise answered to in so far as the same charges these defendants with causing discrimination which it is within the power of these defendants to avoid.

Wherefore, these defendants pray that there may be a hearing and investigation on the above joined issues, that no reduction be required in said interstate rates and fares, and that if the Commission shall find that any unjust discrimination or other unlawfulness exists an order be made requiring advances in said intrastate-Illinois rates and fares as heretofore proposed and attempted by these defendants.

THE CINCINNATI, HAMILTON AND
DAYTON RAILWAY COMPANY AND
JUDSON HARMON AND
RUFUS B. SMITH, *Receivers,*
By MARION R. WAITE, *General Solicitor.*

1541 Filed Sep. 7, 1915. Interstate Commerce Commission.

Before the Interstate Commerce Commission.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS

v.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY ET AL.

Respondents, The Chicago, Rock Island & Pacific Railway Company and Jacob M. Dickinson and H. U. Mudge, Receivers, for answer to the complaint herein, respectfully state:

I.

They are without information concerning the allegations of Paragraph 1 and they leave complainant to its proof thereof.

II.

Respondents admit that they are common carriers engaged in interstate commerce.

III.

Respondents deny that the interstate rates herein complained of are unlawful in the manner specifically alleged. They state that the intrastate rates within the State of Illinois are unduly and unreasonably low. They deny that they are subjecting complainant to unjust discrimination. They state that if such unjust discrimination exists it is due to the requirements of the State authorities of Illinois and not to any act of these respondents. Respondents deny that complainant is entitled to the relief prayed for, or to any part thereof, or to any other or further relief, or to any relief whatsoever.

Wherefore, having thus fully answered, respondents pray to be dismissed.

THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COMPANY AND
JACOB M. DICKINSON AND
H. U. MUDGE, Receivers,
By W. J. DICKINSON, *Their Attorney.*

1542 (See service on back.)

Before the Interstate Commerce Commission, Washington, D. C.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS (a corporation), Complainant,

vs.

THE ATCHION, TOPEKA & SANTA FE RAILWAY COMPANY, THE Baltimore & Ohio Southwestern Railroad Company, Chicago, Burlington & Quincy Railroad Company, Chicago Great Western Railroad Company, Chicago, Milwaukee & St. Paul Railway Company, Chicago, Milwaukee & Gary Railway Company, Chicago, Peoria & St. Louis Railroad Company and Bluford Wilson and Wm. Cotter, Receivers, The Chicago, Rock Island & Pacific Railway Company and H. U. Mudge and J. M. Dickinson, Receivers, Chicago, Terre Haute & Southeastern Railway Company, The Chicago & Alton Railroad Company, Chicago and Eastern Illinois Railroad Company and W. J. Jackson, Receiver, Chicago & Illinois Midland Railway Company, The Cincinnati, Hamilton & Dayton Railway Company and Judson Harmon and Rufus B. Smith, Receivers, The Cleveland, Cincinnati, Chicago & St. Louis Railway Company, Depue & Northern Railroad Company, Elgin, Joliet & Eastern Railway Company, The Hanover Railway Company, Illinois Central Railroad Company, The Illinois Southern Railway Company, Illinois Terminal Railroad Company, The Lake Erie & Western Railroad Company, Litchfield & Madison Railway Company, Louisville & Nashville Railroad Company, The Michigan Central Railroad Company, The Minneapolis & St. Louis Railroad Company, Minneapolis, St. Paul & Sault Ste. Marie Railway Company, Mobile & Ohio Railroad Company, Peoria & Pekin Union Railway Company, Peoria Railway Terminal Company, Rock Island Southern Railway, Southern Railway Company, St. Louis, Iron Mountain & Southern Railway Company, Toledo, St. Louis & Western Railroad Company and W. L. Ross, Receiver, Vandalia Railroad Company, the Wabash Railroad Company, and E. B. Pryor and Edw. F. Kearney, Receivers, The Wabash, Chester & Western Railroad Company and J. Fred Gilster, Receiver, Toledo, Peoria & Western Railway Company, The New York Central Railroad Company, Southern Illinois Railway & Power Company, St. Louis Merchants Bridge Terminal Railway Company, Terminal Railroad Association of St. Louis, Wiggins Ferry Company, Defendants.

The Joint and Several Answers of the Defendants, St. Louis Merchants Bridge Terminal Railway Company, Terminal Railroad Association of St. Louis and Wiggins Ferry Company.

The defendants, St. Louis Merchants Bridge Terminal Railway Company, Terminal Railroad Association of St. Louis and Wiggins

Ferry Company, come and for their joint and several answer
1543 state:

1st. That they are advised that the Business Men's League of St. Louis, complainant herein, is a corporation duly organized and existing under the laws of the State of Missouri, and has its offices in the City of St. Louis, Missouri, as in said complaint alleged, but these defendants are not advised as to the object of said League, nor are they advised as to who constitutes its membership, or what proportion of the freight tonnage of St. Louis is originated and received by its members, as alleged in the first paragraph of said complaint, and in so far as the same may be material, ask proof thereof.

2d. The defendants, St. Louis Merchants Bridge Terminal Railway Company and Terminal Railroad Association of St. Louis are common carriers engaged in the transportation of freight by railroad between points in the State of Missouri and points in the State of Illinois, and the defendant, Wiggins Ferry Company is a common carrier engaged in the transportation of freight by water between the City of St. Louis in the State of Missouri and the City of East St. Louis in the State of Illinois, and all of said defendants as such common carriers are subject to the provisions of the Act to Regulate Commerce, approved February 4th, 1887, and all acts amendatory thereof or supplemental thereto.

3d. These defendants admit that merchants, manufacturers, jobbers and others located in the City of St. Louis, Missouri have been and are shippers of freight of the various classes and also of commodities from St. Louis in the State of Missouri, to points in the State of Illinois, and have been and are also consignees of various articles of freight shipped from various points in the State of Illinois to the City of St. Louis in the State of Missouri, but as to over what lines of the defendants named in said complaint said shipments are made these defendants are not advised; nor are these defendants advised as to whether or not such merchants, manufacturers,
1544 jobbers and other shippers of freight are members of the complainant, nor are these defendants advised as to whether or not members of the complainant as passengers travel over the lines of the defendants between the City of St. Louis, Missouri and points in Illinois.

These defendants admit that the City of St. Louis has been and is in the 117 Per Cent Group of Official Classification Territory, but whether or not freight and passenger rates from the City of St. Louis to points in Illinois have been advnaced as a result of this Commission's order and ruling in rates for passenger and freight in Official Classification Territory these defendants are not advised; nor are these defendants advised as to whether or not interstate passenger and freight rates between St. Louis and points in Illinois were, generally speaking, on the same general basis as the intrastate rates between points similarly situated in Illinois prior to the order and ruling of this Commission; nor are these defendants advised as to whether or not the passenger and freight rates of Illinois have been correspondingly advanced since the advance made in interstate rates as a result of the said ruling of this Commission; nor are these de-

fendants advised as to whether or not the advance in interstate rates without a corresponding advance in Illinois state rates has worked a discrimination on inbound and outbound passenger and freight traffic between St. Louis, Missouri and points in Illinois, as alleged in said complaint. And as to all matters alleged in said paragraph three (3) of the complaint which these defendants do not admit and of which they are not advised, as hereinabove set forth, they ask that proof be made.

These defendants further answering said complaint, state the facts to be that these defendants have not, nor has any or either of them, filed tariffs in relation to the transportation of passengers from the City of St. Louis in the State of Missouri to points in the
1545 State of Illinois, nor from points in the State of Illinois to the City of St. Louis, Missouri, and therefore, the complaint with reference to transportation of passengers has no reference to these defendants or either of them.

Further answering said complaint with reference to transportation of passengers, these defendants state that they are not parties to the tariffs filed by their co-defendants mentioned in said complaint, and that they are in no wise interested in the passenger rates mentioned in said tariffs.

These defendants further answering said complaint with reference to freight rates state the facts to be that they have not advanced their rates since the order of this Commission referred to in said paragraph three (3) of the complaint, and that their freight rates and charges are the same since said advance as they were prior thereto, and if there has been an advance in the interstate rates, as alleged in said complaint, said advance has been made and accomplished by simply advancing the rates of other carriers. In other words, these defendants allege and state the facts to be that they make an independent charge for the transportation of freight from St. Louis, Missouri, to East St. Louis, Madison and Granite City in the State of Illinois, and from the cities of Granite City, Madison and East St. Louis to the City of St. Louis, and that said independent charge was the same before said advance as it is now; and said alleged advance in interstate rates was not accomplished by any change in the rates of these defendants.

Wherefore, having fully answered said complaint, these defendants ask that same may be dismissed.

ST. LOUIS MERCHANTS BRIDGE
TERMINAL RAILWAY COMPANY,
TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS, AND
WIGGINS FERRY COMPANY,
By T. M. PIERCE,
J. L. HOWELL, AND
KRAMER, KRAMER & CAMPBELL,
Their Attorneys.

1546 Filed at Washington, 10/23/15. A. H.

Before the Interstate Commerce Commission.

Intervening Petition of the Chicago Association of Commerce.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS
vs.
THE ATCHISON, TOPEKA & SANTA FE RAILWAY et al.

Comes now the Chicago Association of Commerce by Henry C. Barlow, its Traffic Director, and with leave granted by the Interstate Commerce Commission does hereby intervene in the above entitled case of action and states:

First: That it does not oppose reasonable rates being granted to the petitioner in said case from St. Louis, Missouri, to points in Illinois.

Second: That the granting of the particular relief asked for by said petitioner, whereby there would or might be an advance in the Illinois Intra-State rates would be unjust, unreasonable and unlawful and beyond the jurisdiction of this Commission, and would create unjust and unreasonable discriminations as against Chicago on traffic to and from said Illinois points.

THE CHICAGO ASSOCIATION
OF COMMERCE.
By HENRY C. BARLOW,
Traffic Director.

St. Louis, Mo., Sept. 15th, '15.

1547 #8083. Filed 11/3/15. A. S. C.

Before the Interstate Commerce Commission.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS, a Corporation,
Complainant,
vs.
THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al.,
Defendants.

Intervening Petition of the State Public Utilities Commission of Illinois.

Now comes the State Public Utilities Commission of Illinois, by Everett Jennings, its Counsel, and, pursuant to leave heretofore granted, files this its Intervening Petition herein, in lieu of the intervening petition heretofore filed by it, and thereupon this petitioner shows:

That this petitioner is a body created by an Act of the General Assembly of the State of Illinois, entitled "An Act to provide for the

regulation of Public Utilities," approved June 30, 1913, and in force January 1, 1914, a copy of which is hereto attached marked "Exhibit A", and made a part hereof.

1548 That said State Public Utilities Commission of Illinois is composed of William L. O'Connell, Chairman, and Frank H. Funk, Walter A. Shaw, Owen P. Thompson and Richard Yates.

That in the exercise of the power vested in the State of Illinois, to regulate the rates charged by railroads for the carriage of passengers in intrastate traffic in Illinois, the General Assembly of the State of Illinois heretofore enacted "An Act to establish and regulate the maximum rate of charges for the transportation of passengers by corporations or companies operating or controlling railroads in part or in whole in this State, and to provide penalties for the violation of the provisions thereof, and repealing all acts and parts of acts in conflict herewith," which act was approved May 27, 1907, and since July 1, 1907, has been, and now is, in force in the State of Illinois; and that Section 1 of said Act is in words and figures as follows:

"Be it enacted by the People of the State of Illinois, represented in the General Assembly; That it shall hereafter be unlawful for any corporation or company engaged in the carriage of passengers upon any railroad or railroads between points in this State, to charge in excess of two cents (2¢) per mile for the carriage of adult passengers where any passenger has purchased a ticket entitling him to carriage or in excess of one cent (1¢) per mile for the carriage

1549 of a passenger under twelve (12) years of age where such passenger has purchased a ticket entitling him to carriage. Provided that the charge in no case shall be less than five cents (5¢), and in determining the charge, fractions of less than one-half (½) mile shall be disregarded and all other fractions counted as one (1) mile. If any passenger shall have failed to purchase a ticket entitling him to carriage, a rate of three (3) cents per mile may be charged and collected."

That the power to regulate the rates to be charged by railroads for the carriage of freight and passengers in intrastate traffice in Illinois, is a power vested in the State of Illinois, and that the exercise thereof has been committed by the said Act of 1913 to this Commission, subject as to passenger fares to the limitations contained in the said Act of 1907.

That the regulations contained in said Act of 1907, limiting the fares to be charged for the carriage of passengers upon any railroad between points in the State of Illinois, are reasonable and are not unjustly discriminatory in comparison with reasonable fares for the carriage of passengers between St. Louis and points in Illinois.

1550 That the defendant railroad companies have filed with the State Public Utilities Commission of Illinois, their applications for a general five per cent advance in freight rates within the State of Illinois, and that said applications are now pending and are set for hearing before said State Public Utilities Commission beginning on November 9, 1915, and that said State Public Utilities Commission will have before it for determination on said applications

the reasonableness of the existing and proposed rates for the carriage of freight between points in Illinois; and

That any comparison of rates for the carriage of freight or passengers between St. Louis and points in Illinois with the rates for such carriage for like distances from point to point in Illinois, which does not take into consideration the greater cost of transportation occasioned by the use of expensive terminals in St. Louis, and the necessity for bridging the Mississippi River, is an unfair comparison, and that no charge of unjust discrimination can be reasonably predicated upon such a comparison.

This petitioner respectfully submits that the honorable Interstate Commerce Commission is without lawful power or authority to fix the rates to be charged for the carriage of freight or passengers from point to point wholly within the State of Illinois; and that such power is vested by law in the State Public Utilities Commission of Illinois.

1551 And this petitioner respectfully submits that any order of the honorable Interstate Commerce Commission directing the defendant railroads to increase their passenger rates in Illinois over the rates fixed by the said Illinois Law of 1907, or to increase their freight rates on intrastate traffic in Illinois over the rates which may be fixed and established from time to time in accordance with the aforesaid Act of 1913, would be beyond the powers conferred by law upon the Interstate Commerce Commission and would be an unwarranted interference with the right and power of the State of Illinois to fix and regulate such charges.

This petitioner, the State Public Utilities Commission of Illinois, therefore respectfully asks that it be permitted to intervene in this proceeding and to appear by counsel at the hearing thereof, to produce evidence, to examine and cross-examine witnesses and to take part in the arguments before the Interstate Commerce Commission; that the honorable Interstate Commerce Commission may hold that the rates complained of are not in violation of The Act to Regulate Commerce, and may recognize the right and power of the State of Illinois and the authority of the State Public Utilities Commission of Illinois to fix and regulate the rates to be charged by railroads for the carriage of freight and passengers in intrastate traffic

1552 in Illinois; that your honorable Commission may enter no order in denial of the right and power of the State of Illinois in violation of the authority of this petitioner in the premises; and that the complaint herein may be dismissed.

Respectfully submitted,

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS,
By EVERETT JENNINGS,
Its Counsel.

EVERETT JENNINGS,
Counsel.
TIMOTHY F. MULLEN,
First Assistant Counsel.
(The Capitol, Springfield, Illinois.)

PUBLIC UTILITIES COMMISSION LAW.

ARTICLE I.

GENERAL PROVISIONS.

§ 1. Public Utilities Commission—appointment—term.

§ 2. Secretary and counsel.

§ 3. Additional officers and employees.

§ 4. Oath of office—qualifications—bond, etc.

§ 5. Salaries and expenses.

§ 6. Office of the commission—meetings—seal, etc.

§ 7. Fees to be charged by commission.

§ 8. Supervision of utilities—rules and regulations—report of commission.

§ 9. Utilities to comply with requests and obey orders of commission.

§ 10. No definitions.

ARTICLE II.

REPORTS AND ACCOUNTS.

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AN ACT *to provide for the regulation of public utilities.* [*Approved June 30, 1913, in force January 1, 1914.*

ARTICLE I.

ORGANIZATION AND POWERS OF THE COMMISSION.

SECTION 1. PUBLIC UTILITIES COMMISSION—APPOINTMENT—TERM.] *Be it enacted by the People of the State of Illinois, represented in the General Assembly*: That there is hereby created a State Public Utilities Commission consisting of five members. Within thirty days after this Act shall take effect, the Governor shall, with the advice and consent of the Senate, appoint five persons to constitute such commission, two to serve until the first day of March, 1915, two until the first day of March, 1916, and one until the first day of March, 1917. On or before the first days of March, 1915, 1916 and 1917, respectively, and thereafter as the term of any member expires, the Governor, by and with the advice and consent of the Senate, shall appoint one or two members of the commission, as the case may be, to serve for the term of six years from and after the expiration of the term of his predecessor. Each commissioner shall hold office until his successor shall have been appointed and qualified. Not more than three members of said commission shall be affiliated with the same political party. The Governor shall from time to time designate the member of the commission who shall be its chairman.

Every vacancy in the commission shall be filled for the unexpired portion of the term by appointment by the Governor, by and with the advice and consent of the Senate: *Provided*, that if any vacancy occurs during the recess of the Senate, the Governor may make a temporary appointment until the next meeting of the Senate.

A majority of the commission shall constitute a quorum to transact business; but no vacancy shall impair the right of the remaining commissioners to exercise all the powers of the commission; and every finding, order or decision made by a commissioner, when approved and confirmed by the commission shall be and be deemed to be the finding, order or decision of the commission.

§ 2. SECRETARY AND COUNSEL.] The commission shall have a secretary, to be appointed by the commission, to hold office during its pleasure, who shall keep a record of all the proceedings, transactions, communications and official acts of the commission and perform such other duties as the commission may prescribe.

The commission shall appoint as counsel to the commission an attorney-at-law of the State of Illinois, who shall hold office at the pleasure of the commission. The counsel to the commission shall have power subject to the approval of the commission to appoint and at pleasure remove attorneys-at-law to assist him in the performance of his duties.

§ 3. ADDITIONAL OFFICERS AND EMPLOYEES.] The commission shall have power upon consultation with and the approval of the Governor, to appoint or employ such additional officers and such accountants, engineers, experts, inspectors, clerks, and employees as it may deem to be necessary to carry out the provisions of this Act or to perform the duties and exercise the powers conferred by law upon the

commission. Such appointments, other than those of attorneys, chief engineer, chief accountant, one private secretary or stenographer to each commissioner, experts temporarily employed and other positions which may be exempted by the Civil Service Commission, shall be included in the classified civil service of the State, and shall be made subject to the provisions of an Act entitled, "An Act to regulate the civil service of the State of Illinois," approved May 11, 1905, in force July 1, 1905, and Acts amendatory thereto.

§ 4. OATH OF OFFICE—QUALIFICATIONS—BOND, ETC.] Each commissioner and each person appointed to office by the commission, shall before entering upon the duties of his office, take and subscribe the constitutional oath of office.

Each commissioner shall devote his entire time to the duties of his office, and shall hold no other office or position of profit, or engage in any other business, employment or vocation.

No person in the employ of or holding any official relation to any corporation or person subject in whole or in part to regulation by the commission, and no person holding stocks or bonds in any such corporation, or who is in any other manner pecuniarily interested therein, directly or indirectly, shall be appointed to or hold the office of commissioner or be appointed or employed by the commission; and if any such person shall voluntarily become so interested his office or employment shall *ipso facto* become vacant: *Provided*, that if any person become so interested otherwise than voluntarily he shall within a reasonable time divest himself of such interest, and if he fails to do so his office or employment shall become vacant.

No commissioner nor person appointed or employed by the commission shall solicit or accept any gift, gratuity, emolument or employment from any person or corporation subject to the supervision of the commission, or from any officer, agent, or employee thereof; nor solicit, request from or recommend, directly or indirectly, to any such person or corporation, or to any officer, agent or employee thereof the appointment of any person to any place or position. And every such corporation and person, and every officer, agent or employee thereof, is hereby forbidden to offer to any commissioner or to any person appointed or employed by the commission any gift, gratuity, emolument or employment. If any commissioner or any person appointed or employed by the commission shall violate any provision of this paragraph he shall be removed from the office or employment held by him. Every person violating the provisions of this paragraph shall be guilty of a misdemeanor.

Before entering upon the duties of his office each commissioner shall give bond, with security to be approved by the Governor, in the sum of $20,000, conditioned for the faithful performance of his duty as such commissioner. Every person appointed or employed by the commission, may, in the discretion of the commission, before entering upon the duties of his office, be required to give bond for the faithful discharge of his duties, in such sum as the commission may designate, which bond shall be approved by the commission.

§ 5. SALARIES AND EXPENSES.] The annual salary of each commissioner shall be ten thousand dollars. The annual salary of the secretary to the commission shall be five thousand dollars. The annual

salary of the counsel to the commission shall be *eight* thousand dollars. All officers, accountants, engineers, clerks, inspectors, experts and employees of the commission shall receive the compensation fixed by the commission, subject to the approval of the Governor. The commissioners and their officers, accountants, engineers, clerks, inspectors, experts and other employees shall have reimbursed to them all actual and necessary traveling and other expenses and disbursements necessarily incurred or made by them in the discharge of their official duties. The commission may also incur necessary expenses for office furniture, stationery, printing and other incidental expenses. Said salaries and expenses shall be paid out of moneys appropriated for the commission, only upon the order of the chairman of the commission, approved by the Governor. [As amended by Act filed June 25, 1915.

§ 6. OFFICE OF THE COMMISSION—MEETINGS—SEAL, ETC.] The office of the commission shall be in the State Capitol. Such office shall be open for business between the hours of eight in the morning and five in the evening throughout the year and one or more responsible persons to be designated by the commission or by the secretary under the direction of the commission shall be on duty at all times in immediate charge thereof.

The commission shall hold stated meetings at least once a month at its office and may hold such special meetings as it may deem necessary at any place within the State.

The commission may, for the authentication of its records, process and proceedings, adopt, keep and use a common seal, of which seal judicial notice shall be taken in all courts of this State; and any process, writ, notice or other paper which the said commission may be authorized by law to issue shall be deemed sufficient if signed by the secretary of said commission and authenticated by such seal; and all acts, orders, proceedings, rules, entries, minutes, schedules and records of said commission, and all reports and documents filed with said commission, may be proved in any court of this State by a copy thereof, certified to by the secretary of said commission, with the seal of said commission attached.

§ 7. FEES TO BE CHARGED BY COMMISSION.] The commission shall charge and collect the following fees: For copies of papers and records not required to be certified or otherwise authenticated by the commission, ten cents for each folio; for certified copies of evidence and proceedings before the commission or of official documents and orders filed in its office fifteen cents for each folio, and one dollar for every certificate under seal affixed thereto; for certifying a copy of any report made by a public utility to the commission, or for each certified copy of the annual report of the commission, one dollar. No fees shall be charged or collected for copies of papers, records or official documents furnished to any city or public officers for use in their official capacity, or for the annual reports of the commission in the ordinary course of distribution, but the commission may fix reasonable charges for publications issued under its authority. All fees charged and collected by the commission shall belong to the people of the State, and shall be paid monthly, accompanied by a detailed statement thereof, into the treasury of the State to the credit of the general fund.

§ 8. SUPERVISION OF UTILITIES—RULES AND REGULATIONS—REPORT OF COMMISSION.] The commission shall have general supervision of all public utilities, shall inquire into the management of the business thereof and shall keep itself informed as to the manner and method in which the business is conducted. It shall examine such public utilities and keep informed as to their general condition, their franchises, capitalization, rates and other charges, and the manner in which their plants, equipments and other property owned, leased, controlled or operated are managed, conducted and operated, not only with respect to the adequacy, security and accommodation afforded by their service but also with respect to their compliance with the provisions of this Act and any other law, with the orders of the commission and with the charter and franchise requirements.

In case any public utility is engaged in carrying on any business other than that of a public utility, which other business is not otherwise subject to the jurisdiction of the commission, such public utility in respect of such other business shall be subject to inquiry, examination and inspection by the commission in the same manner as the public utility business in so far as such inquiry, examination and inspection may be necessary to enforce any provision of this Act. The determination of the commission that a necessity for any regulation of non-public business of a public utility exists shall be *prima facie* evidence of the fact in any action in a court of this State to enforce or set aside an order or ruling of the commission.

The commission may confer in person, or by correspondence, by attending conventions, or in any other way, with the members of railroad or other public utility commissions of other states and with the Interstate Commerce Commission on any matters relating to public utilities.

The commission shall have power to adopt reasonable and proper rules and regulations relative to the exercise of its powers, and proper rules to govern its proceedings, and to regulate the mode and manner of all investigations and hearings, and to alter and amend the same.

All proceedings of the commission and all documents and records in its possession shall be public records, except as in this Act otherwise provided. The commission shall make an annual report to the Governor on or before the first day of December in each year, after the year 1913, which shall contain copies of all orders issued by it, and any information in the possession of the commission which it shall deem of value to the people of the State.

The commission shall conduct a hearing and take testimony relative to any pending legislation with respect to any person, corporation or matter within its jurisdiction, if requested to do so by the General Assembly or by either branch thereof, or by a standing committee of either branch thereof, and shall report its conclusions to the General Assembly. The commission may also recommend the enactment of such legislation with respect to any matter within its jurisdiction as it deems wise or necessary in the public interest. The commission shall, at such times as the Governor shall direct, examine any particular subject connected with the condition and management of public utilities,

and report to him in writing its opinion thereon with its reasons therefor.

§ 9. UTILITIES TO COMPLY WITH REQUESTS AND TO OBEY ORDERS OF COMMISSION.] Every public utility shall furnish to the commission all information required by it to carry into effect the provisions of this Act, and shall make specific answers to all questions submitted by the commission.

Any public utility receiving from the commission any blanks with directions to fill the same, shall cause the same to be properly filled out so as to answer fully and correctly each question therein propounded, and in case it is unable to answer any question, it shall give a good and sufficient reason for such failure; and said answer shall be verified under oath by the president, secretary, superintendent or general manager of such public utility and returned to the commission at its office within the period fixed by the commission.

Whenever required by the commission, every public utility shall deliver to the commission, any or all maps, profiles, reports, documents, books, accounts, papers and records in its possession, or in any way relating to its property or affecting its business, and inventories of its property, in such form as the commission may direct, or verified copies of any or all of the same.

Every public utility shall obey and comply with each and every requirement of every order, decision, direction, rule or regulation made or prescribed by the commission in the matters herein specified, or any other matter in any way relating to or affecting its business as a public utility, and shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, direction, rule or regulation by all of its officers, agents and employees.

§ 10. DEFINITIONS.] Unless otherwise specified, the word, "commission," when used in this Act, means the State Public Utilities Commission of Illinois, which is created and established under the provisions of this Act.

The term "commissioner," when used in this Act means one of the members of the commission.

The term "public utility," when used in this Act, means and includes every corporation, company, association, joint stock company or association, firm, partnership or individual, their lessees, trustees, or receivers appointed by any court whatsoever (except, however, such public utilities as are or may hereafter be owned or operated by any municipality) that now or hereafter:

(a) May own, control, operate or manage, within the State, directly or indirectly for public use, any plant, equipment or property used or to be used for or in connection with the transportation of persons or property or the transmission of telegraph or telephone messages between points within this State; or for the production, storage, transmission, sale, delivery or furnishing of heat, cold, light, power, electricity or water; or for the conveyance of oil or gas by pipe line; or for the storage or warehousing of goods; or for the conduct of the business of a wharfinger; or that

(b) May own or control any franchise, license, permit or right to engage in any such business.

The term "common carrier," when used in this Act, includes all railroads, street railroads, express companies, private car lines, sleeping car companies, fast freight lines, steamboat lines and other common carriers by water, and every corporation, company, association, joint stock company or association, firm, partnership or individual, their lessees, trustees, or receivers appointed by any court whatsoever, owning, operating or managing any such agency for public use in the transportation of persons or property within this State.

The term "railroad," when used in this Act, includes every railroad other than a street railroad, by whatsoever power operated for public use in the transportation of persons or property for compensation, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, poles, wires, stations, real estate and terminal facilities of every kind, used, operated, controlled or owned by or in connection with any railroad.

The term "street railroad," when used in this Act, includes every railroad by whatsoever power operated, or any extension or extensions, branch or branches thereof, for public use in the transportation of persons or property for compensation, being mainly upon, along, above or below any street, avenue, road, highway, bridge or public place in any city, village or incorporated town, and including all equipment, switches, spurs, tracks, poles, wires, right of trackage, subways, tunnels, stations, terminals and terminal facilities of every kind, together with all real estate used, operated, controlled or owned by or in connection with any such street railroad; but the said term "street railroad," when used in this Act, shall not include a railroad constituting or used as part of a trunk line railroad system.

The term "transportation of persons," when used in this Act, includes any service in connection with the receipt, carriage and delivery of the person transported and his baggage, and all facilities, used or necessary to be used in connection with the safety, comfort and convenience of the person transported.

The term "transportation of property," when used in this Act, includes any service in connection with the receipt, carriage, delivery, elevation, transfer in transit, ventilation, refrigeration, icing, storage and handling of the property transported.

The term "express company," when used in this Act, includes every corporation, company, association, joint stock company or association, firm, partnership or individual, their lessees, trustees, or receivers appointed by any court whatsoever, engaged in the transportation of freight, merchandise or other property for compensation on the route or line of any other common carrier.

The term "company," when used in this Act in connection with a public utility, includes any corporation, company, association, joint stock company or association, firm, partnership or individual, their lessees, trustees, or receivers appointed by any court whatsoever, owning, holding, operating, controlling or managing such a public utility, but not municipal corporations.

The term "corporation," when used in this Act, includes any corporation, company, association, joint stock company or association, but not municipal corporations.

The term "person," when used in this Act, includes an individual, firm or co-partnership.

The term "warehouse," when used in this Act, includes all elevators or storehouses where grain is stored for a compensation, whether the property stored be kept separate or not.

The term "wharfinger," when used in this Act, includes every corporation, not municipal, or person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, controlling, operating or managing any dock, wharf, or structure used by vessels or other water craft in connection with or to facilitate the receipt or discharge of freight or passengers within this State.

The term "service," when used in this Act, is used in its broadest and most inclusive sense, and includes not only the use or accommodation afforded consumers or patrons, but also any product or commodity furnished by any public utility and the plant, equipment, apparatus, appliances, property and facilities employed by, or in connection with, any public utility in performing any service or in furnishing any product or commodity and devoted to the purposes in which such public utility is engaged and to the use and accommodation of the public.

The term "rate," when used in this Act, includes every individual or joint rate, fare, toll, charge, rental or other compensation of any public utility or any two or more such individual or joint rates, fares, tolls, charges, rentals or other compensations of any public utility or any schedule or tariff thereof, and any rule, regulation, charge, practice or contract relating thereto.

The term "city council," when used in this Act, includes the mayor and commissioners of cities which have adopted the commission form of municipal government and the council of all other cities and villages.

The term "city," when used in this Act includes all villages.

Article II.

Reports and Accounts.

§ 11. Accounts.] The commission shall have power to establish a uniform system of accounts to be kept by public utilities or to classify public utilities and to establish a uniform system of accounts for each class, and to prescribe the manner in which such accounts shall be kept. It may also, in its discretion, prescribe the forms of accounts to be kept by public utilities, including records of service, as well as accounts of earnings and expenses, and any other forms, records and memoranda which in the judgment of the commission may be necessary to carry out any of the provisions of this Act. The system of accounts established by the commission and the forms of accounts prescribed by it shall not be inconsistent, in the case of corporations subject to the provisions of the Act of Congress entitled, "An Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and the Acts amendatory thereof and supplementary thereto, with the systems and forms from time to time established for such corporations by the Interstate Commerce Commission, but nothing herein contained shall affect the power of the commission to prescribe forms of accounts, for such corporations, with the approval of the Interstate Commerce Commission, covering information in addition

to that required by the Interstate Commerce Commission. Where the commission has prescribed the forms of accounts to be kept by any public utility for any of its business, it shall thereafter be unlawful for such public utility to keep any accounts for such business other than those prescribed or approved by the commission, or those prescribed by or under the authority of any other state or of the United States.

The commission may, from time to time, alter, amend or repeal, in whole or in part, any uniform system of accounts, or the forms and manner of keeping accounts.

§ 12. OTHER THAN PUBLIC UTILITY BUSINESS.] The commission may require every public utility engaged directly or indirectly in any other than a public utility business, as defined by law, to keep separately in like manner and form the accounts of all such other business, and the commission may provide for the examination and inspection of the books, accounts, papers and records of such other business, in so far as may be necessary to enforce any provision of this Act. The commission shall have power to inquire as to and prescribe the apportionment of capitalization, earnings, debts and expenses fairly and justly to be awarded to or borne by the ownership, operation, management or control of such public utility as distinguished from such other business.

§ 13. FORMS OF ACCOUNTS.] Such systems of accounts shall provide for forms showing all sources of income, the amounts due and received from each source and the amounts expended and due for each purpose, distinguishing clearly all payments for operating expenses from those for new construction, extensions and additions; and for balance sheets showing assets and liabilities and various forms of proprietary interest.

§ 14. DEPRECIATION ACCOUNTS.] The commission shall have power, after hearing, to require any or all public utilities to keep such accounts as will adequately reflect depreciation, obsolescence and the progress of the arts. The commission may, from time to time, ascertain and determine and by order fix the proper and adequate rate of depreciation of the several classes of property for each public utility; and each public utility shall conform its depreciation accounts to the rates so ascertained, determined and fixed.

§ 15. AUDIT AND INSPECTION.] The commission may provide for the examination and audit of all accounts, and all items shall be allocated to the accounts in the manner prescribed by the commission. The officers and employees of the commission shall have authority under the direction of the commission to inspect and examine any and all books, accounts, papers, records and memoranda kept by such public utilities.

§ 16. ACCOUNTS TO BE KEPT IN STATE.] Each public utility shall have an office in one of the cities, villages or incorporated towns in this State in which its property or some part thereof is located, and shall keep in said office all such books, accounts, papers, records and memoranda as shall be ordered by the commission to be kept within the State. The address of such office shall be filed with the commission. No books, accounts, papers, records, or memoranda ordered by the commission to be kept within the State shall be at any time re-

moved from the State, except upon such conditions as may be prescribed by the commission.

§ 17. FALSIFICATION OR DESTRUCTION OF ACCOUNTS.] Any person who shall wilfully make any false entry in the accounts, or in any record or memorandum kept by a public utility, or who shall wilfully destroy, mutilate, alter, or by any other means or device falsify the record of any such account, record or memorandum, or who shall wilfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the public utility, or shall keep any accounts or record other than those prescribed or approved by the commission, shall be guilty of a misdemeanor, and upon conviction, be subject to imprisonment in the county jail not exceeding one year, or to a fine not exceeding one thousand dollars, or both.

§ 18. PENALTY FOR DIVULGING INFORMATION.] Any officer or employee of the commission who divulges any fact or information coming to his knowledge during the course of an inspection, examination or investigation of any account, record, memorandum, book or paper of a public utility, except in so far as he may be authorized by the commission or by a court of competent jurisdiction, or a judge thereof, shall be guilty of a misdemeanor, and upon conviction, be subject to imprisonment in the county jail not exceeding one year, or to a fine not exceeding one thousand dollars, or to both.

§ 19. REPORTS BY PUBLIC UTILITIES—PENALTIES FOR FAILURE TO REPORT OR FALSE REPORT.] Each public utility in the State shall each year after the year 1913 furnish to the commission, in such form as the commission shall require, annual reports as to all the items mentioned in the preceding sections of this article, and in addition such other items, whether of a nature similar to those therein enumerated or otherwise, as the commission may prescribe. Such annual reports shall contain all the required information for the period of twelve months ending on the thirtieth day of June in each year, or ending on the thirty-first day of December in each year, as the commission may by order prescribe for each class of public utilities, and shall be filed with the commission at its office in Springfield within three months after the close of the year for which the report is made. The commission shall have authority to require any public utility to file monthly reports of earnings and expenses of such utility, and to file other periodical or special, or both periodical and special reports concerning any matter about which the commission is authorized by law to keep itself informed. All reports shall be under oath.

When any report is erroneous or defective or appears to the commission to be erroneous or defective, the commission may notify the public utility to amend such report within thirty days, and before or after the termination of such period the commission may examine the officers, agents or employees, and books, records, accounts, vouchers, plant, equipment and property of such public utility, and correct such items in the report as upon such examination the commission may find defective or erroneous.

All reports made to the commission by any public utility and the contents thereof shall be open to public inspection, unless otherwise

ordered by the commission. Such reports shall be preserved in the office or [of] the commission.

Any public utility which fails to make and file any report called for by the commission within the time specified; or to make specific answer to any question propounded by the commission within thirty days from the time it is lawfully required to do so, or within such further time, not to exceed ninety days, as may in its discretion be allowed by the commission, shall forfeit $100 for each and every day it may so be in default.

Any person who wilfully makes any false return or report to the commission, or to any member, officer or employee thereof, and any person who aids or abets such person, shall, upon conviction, be subject to imprisonment in the county jail not exceeding one year, or to a fine not exceeding one thousand dollars, or both.

Article III.

Stocks and bonds—Capitalization—Intercorporate relations—Franchises—Valuation.

§ 20. Right to issue stocks, bonds, etc.] The power of public utilities to issue stocks, stock certificates, bonds, notes and other evidences of indebtedness and to create liens on their property is a special privilege, the right of supervision, regulation, restriction and control of which is and shall continue to be vested in the State, and such power shall be exercised by the commission hereby created according to the provisions of this Act and under such rules and regulations as the commission may prescribe.

The commission shall provide, by serial number or other device to be placed on the face thereof, for the proper and easy identification of such stocks, stock certificates, bonds, notes and other evidences of indebtedness as may be issued by public utilities under the provisions of this article.

§ 21. Approval of issues—application of proceeds—indebtedness for a year or less—franchises not to be capitalized.] Subject to the provisions of this Act and of the order of the commission issued as provided in this Act, a public utility may issue stocks and stock certificates, and bonds, notes and other evidences of indebtedness payable at periods of more than twelve months after the date thereof, for the following purposes and no others, namely: for the acquisition of property, or for the construction, extension or improvement of or addition to its facilities, or for the discharge or lawful refunding of its obligations; or for the reimbursement of moneys actually expended from income or from any other moneys in the treasury of the public utility not directly or indirectly secured by or obtained from the issue of stocks or stock certificates, or bonds, notes or other evidences of indebtedness of such public utility, within five years next prior to the filing of an application with the commission for the required authorization, for any of the aforesaid purposes except maintenance of service, replacements and substitutions in cases where the applicant shall have kept its accounts and vouchers for such expenditures in such manner as to enable the commission to ascertain the amount of moneys so ex-

pended and the purposes for which such expenditures were made, and the sources of the funds in the treasury of the public utility applied to such expenditures: *Provided,* that such public utility, in addition to the other requirements of law, shall first have secured from the commission an order authorizing such issue and stating the amount thereof and the purpose or purposes to which the issue or the proceeds thereof are to be applied, and that, in the opinion of the commission, the money, property or labor to be procured or paid for by such issue is reasonably required for the purpose or purposes specified in the order, and that, except as otherwise permitted in the order in the case of notes or other evidences of indebtdness, such purpose or purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. To enable it to determine whether it will issue such order, the commission shall hold a hearing and may make such additional inquiry or investigation, and examine such witnesses, books, papers, accounts, documents and contracts and require the filing of such data as it may deem of assistance. The public utility may be required by the commission to disclose every interest of the directors of such public utility in any transaction under investigation. The commission shall have power to investigate all such transactions and to inquire into the good faith thereof, to examine books, papers, accounts, documents and contracts of public utilities, construction or other companies or of firms or individuals with whom the public utility shall have had financial transactions, for the purpose of enabling it to verify any statements furnished, and to examine into the actual value of property acquired by, or services rendered to such public utility. Before issuing its order the commission, when it is deemed necessary by the commission, shall make an adequate physical valuation of all property of the public utility, but a valuation already made under proper public supervision may be adopted, either in whole or in part, at the discretion of the commission; and shall also examine all previously authorized or outstanding securities of the public utility, and fixed charges attached thereto. A statement of the results of such physical valuation, and a statement of the character of all outstanding securities, together with the conditions under which they are held, shall be included in the order. The commission may require that such information or such part thereof as it thinks proper, shall appear upon the stock, stock certificate, bond, note or other evidence of indebtedness authorized by its order. The commission may by its order grant permission for the issue of such stocks or stock certificates, or bonds, notes or other evidences of indebtedness in the amount applied for, or in a lesser amount, or not at all, and may attach to the exercise of its permission such condition or conditions as it may deem reasonable and necessary. The commission may also require the public utility to compile for the information of its shareholders such facts in regard to its financial transactions, in such form as the commission may direct.

No public utility shall, without the consent of the commission, apply the issue of any stock or stock certificate, or bond, note or other evidence of indebtedness, or any part thereof, or any pro-

ceeds thereof, to any purpose not specified in the commission's order or to any purpose specified in the commission's order in excess of the amount authorized for such purpose, or issue, or dispose of the same on any terms less favorable than those specified in such order, or a modification thereof. The commission shall have the power to require public utilities to account for the disposition of the proceeds of all sales of stocks and stock certificates, and bonds, notes and other evidences of indebtedness, in such form and detail as it may deem advisable, and to establish such rules and regulations as it may deem reasonable and necessary to insure the disposition of such proceeds for the purpose or purposes specified in its order.

A public utility may issue notes, for proper purposes and not in violation of any provision of this Act or any other Act, payable at periods of not more than twelve months after the date of issuance of the same, without the consent of the commission; but no such note shall, in whole or in part, be renewed from time to time without the consent of the commission for an aggregate period of longer than two years, or be refunded by an issue of stocks or stock certificates, or of bonds, notes of any term or character or any other evidence of indebtedness, without the consent of the commission.

The commission shall have no power to authorize the capitalization of the right to be a corporation, or to authorize the capitalization of any franchise, license, or permit whatsoever or the right to own, operate or enjoy any such franchise, license or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchise, license, permit or right; nor shall any contract for consolidation or lease be capitalized, nor shall any public utility hereafter issue any bonds, notes or other evidences of indebtedness against or as a lien upon any contract for consolidation or merger.

§ 22. CONSOLIDATION AND REORGANIZATION—CAPITALIZATION.] The capitalization of a public utility formed by a merger or consolidation of two or more corporations shall be subject to the approval of the commission, but in no event shall the commission approve a capitalization exceeding the sum of the capital stock of the corporations so consolidated, at the par value thereof, and any additional sum actually paid in cash for improvements; nor shall any contract for consolidation or lease be capitalized in the stock of any corporation whatever; nor shall any corporation hereafter issue any bonds against or as a lien upon any contract for consolidation or merger. In any reorganization of a public utility, resulting from forced sale, or in any other manner, the amount of capitalization, including therein all stocks and stock certificates and bonds, notes, and other evidences of indebtedness, shall be such as is authorized by the commission, which in making its determination, shall not exceed the fair value of the property involved. Issuance of stocks and stock certificates, and bonds, notes or other evidences of indebtedness in connection with any consolidation, merger, or reorganization shall be subject to all the terms of sections 20 and 21 of this Act.

§ 23. STOCKS, BONDS, ETC., UNLAWFULLY ISSUED VOID.] All stock and every stock certificate, and every bond, note or other evidence of indebtedness, of a public utility, not payable within twelve months issued without an order of the commission authorizing the same then in effect shall be void, unless issued upon the authority of any articles of incorporation or amendments thereto, and of a vote of the stockholders or directors, filed and taken before this Act becomes a law, and likewise all stock and every stock certificate, and every bond, note or other evidence of indebtedness of a public utility not payable within twelve months, issued with the authorization of the commission, but not conforming in its provisions to the provisions, if any, which it is required by the order of authorization of the commission to contain, shall be void; but no failure in any other respect to comply with the terms or conditions of the order of authorization of the commission shall render void any stock or stock certificate, or any bond, note or other evidence of indebtedness, except as to a corporation or person taking the same with notice of the failure to comply with the order of the commission.

§ 24. PENALTY AGAINST PUBLIC UTILITY.] Every public utility which, directly or indirectly, issues or causes to be issued, any stock, stock certificate, bond, note or other evidence of indebtedness, in non-conformity with the order of the commission authorizing the same, or contrary to the provisions of this Act, or which applies the proceeds from the sale thereof, or any part thereof, to any purpose other than the purpose or purposes specified in the commission's order, as herein provided, or to any purpose specified in the commission's order, in excess of the amount authorized for such purpose, shall, upon conviction, be subject to a penalty of not less than five hundred dollars ($500) nor more than twenty thousand dollars ($20,000) for each offense.

§ 25. PENALTY FOR FALSE STATEMENT, ETC.] Every officer, agent or employee of a public utility, and every other person who knowingly authorizes, directs, issues or executes, causes to be issued or executed, or aids in the issue or execution of any stock, stock certificate, bond, note or other evidence of indebtedness, in non-conformity with the order of the commission authorizing the same, or contrary to the provisions of this Act; or who, in any proceeding before the commission, knowingly makes any false statement or representation, or with the knowledge of its falsity files or causes to be filed with the commission any false statement or representation, which said statement or representation so made, filed or caused to be filed may tend in any way to influence the commission to make an order authorizing the issue of any stock or stock certificate, or any bond, note or other evidence of indebtedness, or which results in procuring from the commission the making of any such order, or who, with knowledge that any false statement or representation was made to the commission, in any proceeding, tending in any way to influence the commission to make such order, issues or executes or negotiates, or causes to be issued, executed or negotiated any such stock or stock certificate, or bond, note or other evidence of indebtedness, or, who directly or indirectly, knowingly applies, or causes or assists to be applied the proceeds or any part thereof, from the sale of any stock or stock certificate, or bond, note or other evidence of indebtedness, to any purpose not specified in the commission's order,

or to any purpose specified in the commission's order in excess of the amount authorized for such purpose, or who, with knowledge that any stock or stock certificate, or bond, note or other evidence of indebtedness, has been issued or executed in violation of any of the provisions of this Act, negotiates, or causes the same to be negotiated, shall, on conviction thereof, be imprisoned in the State penitentiary for a term of not less than two years and not more than ten years.

§ 26. NO GUARANTEE OF STOCKS, BONDS, ETC., BY STATE.] No provision of this Act, and no deed or act done or performed under or in connection therewith, shall be held or construed to obligate the State of Illinois to pay or guarantee, in any manner whatsoever, any stock or stock certificate, or bond, note or other evidence of indebtedness, authorized, issued or executed under the provisions of this Act; nor shall it be held or construed to imply any validation or approval by the State of past issues, nor that past or future or past and future issues represent actual value of property owned or to be owned by a public utility or the value of such property for rate-making purposes.

§ 27. INCORPORATE [INTERCORPORATE] RELATIONS.] Unless the consent and approval of the commission is first obtained:

(a) No two or more public utilities may enter into contracts with each other that will enable such public utilities to operate their lines or plants in connection with each other;

(b) No public utility may purchase, lease, or in any other manner acquire control, direct or indirect, over the franchises, licenses, permits, plants, equipment, business, or other property of any other public utility;

(c) No public utility may assign, transfer, lease, mortgage, sell, or otherwise dispose of or encumber the whole or any part of its franchises, licenses, permits, plant, equipment, business, or other property; but this shall not be construed to prevent the sale, lease, assignment or transfer by any public utility of any tangible personal property which is not necessary or useful in the performance of its duties to the public;

(d) No public utility may by any means, direct or indirect, merge or consolidate its franchises, licenses, permits, plants, equipment, business, or other property with that of any other public utility;

(e) No public utility may purchase, acquire, take or receive any stock, stock certificates, bonds, notes or other evidences of indebtedness of any other public utility. But with the consent and approval of the commission, a public utility may purchase, acquire, take, or hold stock, stock certificates, bonds, notes or other evidences of indebtedness of another public utility.

The proceedings for obtaining the authorization of the commission provided for in this section shall be as follows: There shall be filed with the commission a petition, joint or otherwise, as the case may be, signed and verified by the president and secretary of the respective companies, or by the person or company, as the case may be, clearly setting forth the object and purposes desired, and setting forth the full and complete terms of the proposed assignment, transfer, lease, mortgage, purchase, sale, merger, consolidation, contract or other transaction, as the case may be. Upon the filing of such petition, the commission shall, if it deems necessary, fix a time and place for the hearing

thereon. After such hearing, or in case no hearing is required, if the commission is satisfied that such petition should reasonably be granted, and that the public will be convenienced thereby, the commission shall make such order in the premises as it may deem proper and as the circumstances may require, attaching such conditions as it may deem proper, and thereupon it shall be lawful to do the things provided for in such order. The commission shall impose such conditions as will protect the interests of minority and preferred stockholders.

Every assignment, transfer, lease, mortgage, sale, or other disposition or encumbrance of the whole or any part of the franchises, licenses, permits, plant, equipment, business or other property of any public utility, or any merger or consolidation thereof, and every contract, purchase or stock, or other transaction referred to in this section, made otherwise than in accordance with an order of the commission authorizing the same, except as provided in this section, shall be void.

§ 28. FOREIGN CORPORATIONS—FRANCHISES—APPLICATION OF LAW TO.] No franchise, license, permit or right to own, operate, manage or control any public utility, except common carriers engaged in interstate commerce, shall be hereafter granted or transferred to any grantee or transferee other than a corporation duly incorporated under the laws of this State.

No public utility shall be in any manner exempt from the provisions of this Act because or by virtue of the fact that it may be or may have been incorporated or organized under the laws of another state, or of the United States, or of a foreign country.

§ 29. TRANSFER OF FRANCHISES.] No franchise, license, permit or right to own, operate, manage or control any public utility shall be assigned, transferred or leased nor shall any contract or agreement with reference to or affecting any such franchise, license, permit or right be valid or of any force or effect whatsoever unless such assignment, lease, contract or agreement shall have been approved by the commission. Such permission shall not be construed to revive or validate any lapsed or invalid franchise, license, permit or right, or to enlarge or add to the powers and privileges contained in the grant of any franchise, license, permit or right, or to waive any forfeiture.

§ 30. VALUATION.] The commission shall have power to ascertain the value of the property of every public utility in this State and every fact which in its judgment may or does have any bearing on such value. In making such valuation the commission may avail itself of any information, books, documents, or records in the possession of any officer, department or board of the State or any subdivision thereof. The commission shall have power to make re-valuation from time to time and also to ascertain the value of all new construction, extensions and additions to the property of every public utility.

§ 31. FEES FOR ISSUANCE OF STOCKS AND BONDS.] The commission shall charge every public utility receiving permission under this Act for the issue of stocks, stock certificates, bonds, notes and other evidences of indebtedness an amount equal to ten (10) cents for every hundred dollars of such securities authorized by the commission, and the same shall be paid into the State treasury before any such securities shall be issued.

ARTICLE IV.

RATES AND SERVICE—ACCIDENTS.

§ 32. GENERAL DUTIES OF PUBLIC UTILITIES.] All rates or other charges made, demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or for any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge made, demanded or received for such product or commodity or service is hereby prohibited and declared unlawful.

Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees, and the public, and as shall be in all respects adequate, efficient, just and reasonable.

All rules and regulations made by a public utility affecting or pertaining to its charges or service to the public shall be just and reasonable.

§ 33. FILING SCHEDULE OF RATES.] Every public utility shall file with the commission and shall print and keep open to public inspection schedules showing all rates and other charges, and classifications, which are in force at the time for any product or commodity furnished or to be furnished by it, or for any service performed by it, or for any service in connection therewith, or performed by any public utility controlled or operated by it. Every public utility shall file with and as a part of such schedule and shall state separately all rules, regulations, terminal, icing, storage or other charges, privileges and contracts that in any manner affect the rates charged or to be charged for any service. Such schedule shall be filed for all services performed wholly or partly within this State, and the rates and other charges and classifications shall not, without the consent of the commission, exceed those in effect on July 1, 1913. But nothing in this section shall prevent the commission from approving or fixing rates or other charges or classifications from time to time, in excess of or less than those shown by said schedules.

Where a schedule of joint rates or other charges, or classifications is or may be in force between two or more public utilities such schedules shall in like manner be printed and filed with the commission, and so much thereof as the commission shall deem necessary for the use of the public shall be filed in every station or office of such public utility in accordance with the terms of section 34 of this Act. Unless otherwise ordered by the commission a schedule showing such joint rates or other charges, or classification need not be filed with the commission by more than one of the parties to it: *Provided*, that there is also filed with the commission a concurrence in such schedule by each of the other parties thereto.

Every public utility shall file with the commission copies of all contracts, agreements or arrangements with other public utilities, in relation to any service, product or commodity affected by the provisions of this Act, to which it may be a party, and copies of all other contracts, agreements or arrangements with any other

person or corporation affecting in the judgment of the commission the cost to such public utility of any service, product or commodity.

§ 34. PUBLICATION AND POSTING OF SCHEDULES.] Subject to such rules and regulations as the commission may prescribe, the schedules referred to in section 33 shall be plainly printed, mimeographed or typewritten in large type, and a copy thereof shall be posted or kept on file in every station or office of a public utility where the public transacts business with such public utility. Any or all of such schedules kept as aforesaid shall be immediately produced by such public utility for inspection upon the demand of any person. A notice printed in bold type, in size prescribed by the commission, stating that such schedules are on file with the agent and open to inspection by any person, and that the agent will assist any person to determine from such schedules any rates or other charges, classification, rules or regulations in force, shall be kept posted by the public utility in two public and conspicuous places in every such station or office. The form of every such schedule shall be prescribed by the commission and shall conform in the case of common carriers subject to the Act of Congress entitled, "An Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and the Acts amendatory thereof and supplementary thereto, as nearly as may be, to the form of schedules and manner of posting prescribed by the Interstate Commerce Commission under said Act: *Provided,* that in lieu of filing its entire schedule in each station or office, any public utility may, subject to the regulations of the commission, file or keep posted at such station or office, schedules of such rates or other charges, classifications, rules and regulations relating thereto, as are applicable at, to and from the place where such office is located.

The commission may determine and prescribe the form in which the schedules required by this Act to be filed with the commission and to be kept open to public inspection shall be prepared and arranged, and may change the form from time to time if it shall be found expedient: *Provided, however,* that the commission shall endeavor to have such form or forms prescribed by it conform so far as practicable to any similar form or forms prescribed by the Interstate Commerce Commission.

§ 35. NO SERVICE TO BE RENDERED UNTIL SCHEDULES FILED.] No public utility shall undertake to perform any service or to furnish any product or commodity unless or until the rates and other charges and classifications, rules and regulations relating thereto applicable to such service, product, or commodity, have been filed and published in accordance with the provisions of this Act: *Provided,* that in cases of emergency, a service, product or commodity not specifically covered by the schedules filed, may be performed or furnished at a reasonable rate, which rate shall forthwith be filed and shall be subject to review in accordance with the provisions of this Act.

§ 36. CHANGES OF RATES.] Unless the commission otherwise orders, no change shall be made by any public utility in any rate or other charge or classification, or in any rule, regulation, practice or

contract relating to or affecting any rate or other charge, classification or service, or in any privilege or facility, except after thirty days' notice to the commission and to the public as herein provided. Such notice shall be given by filing with the commission and keeping open for public inspection new schedules or supplements stating plainly the change or changes to be made in the schedule or schedules then in force, and the time when the change or changes will go into effect. The commission, for good cause shown, may allow changes without requiring the thirty days' notice herein provided for, by an order specifying the changes so to be made and the time when they shall take effect, and the manner in which they shall be filed and published. When any change is proposed in any rate or other charge, or classification, or in any rule, regulation, practice, or contract relating to or affecting any rate or other charge, classification or service, or in any privilege or facility, such proposed changes shall be plainly indicated on the new schedule filed with the commission, by some character to be designated by the commission, immediately preceding or following the item.

No public utility shall increase any rate or other charge, or so alter any classification, contract, practice, rule or regulation as to result in any increase in any rate or other charge, under any circumstances whatsoever, except upon a showing before the commission and a finding by the commission that such increase is justified.

Whenever there shall be filed with the commission any schedule stating an individual or joint rate or other charge, classification, contract, practice, rule or regulation, the commission shall have power, and it is hereby given authority, either upon complaint or upon its own initiative without complaint, at once, and if it so orders, without answer or other formal pleadings by the interested public utility or utilities, but upon reasonable notice, to enter upon a hearing concerning the propriety of such rate or other charge, classification, contract, practice, rule or regulation, and pending the hearing and the decision thereon, such rate or other charge, classification, contract, practice, rule or regulation shall not go into effect: *Provided*, that the period of suspension of such rate or other charge, classification, contract, practice, rule or regulation shall not extend more than one hundred and twenty days beyond the time when such rate or other charge, classification, contract, practice, rule or regulation would otherwise go into effect unless the commission, in its discretion, extends the period of suspension for a further period not exceeding six months. On such hearing the commission shall establish the rates or other charges, classifications, contracts, practices, rules or regulations proposed, in whole or in part, or others in lieu thereof, which it shall find to be just and reasonable. All such rates or other charges, classifications, contracts, practices, rules or regulations not so suspended shall, on the expiration of thirty days from the time of filing the same with the commission, or of such lesser time as the commission may grant, go into effect and be the established and effective rates or other charges, classifications, contracts, practices, rules and regulations, subject to the power of the commission, after a hearing had on its own motion or upon complaint, as herein provided, to alter or modify the same. Within thirty days after such changes have been authorized by

the commission, copies of the new or revised schedules shall be poste
or filed in accordance with the terms of section 34 of this Act, in suc
a manner that all changes shall be plainly indicated.

§ 37. CHARGING MORE OR LESS THAN PUBLISHED RATE.] Excep
as in this article otherwise provided, no public utility shall charg
demand, collect or receive a greater or less or different compensatio
for any product, or commodity furnished or to be furnished, or fo
any service rendered or to be rendered, than the rates or other charg
applicable to such product or commodity or service as specified in i
schedules on file and in effect at the time, except as provided in sectio
35, nor shall any such public utility refund or remit, directly or ind
rectly, in any manner or by any device, any portion of the rates
other charges so specified, nor extend to any corporation or person a
form of contract or agreement or any rule or regulation or any facili
or privilege except such as are regularly and uniformly extended
all corporations and persons.

§ 38. DISCRIMINATION FORBIDDEN.] No public utility shall, as
rates or other charges, services, facilities or in any other respect, mak
or grant any preference or advantage to any corporation or person
subject any corporation or person to any prejudice or disadvantag
No public utility shall establish or maintain any unreasonable diffe
ence as to rates or other charges, services, facilities, or in any oth
respect either as between localities or as between classes of service.

Every public utility shall, upon reasonable notice, furnish to
persons who may apply therefor and be reasonably entitled theret
suitable facilities and service, without discrimination and witho
delay.

§ 39. DISCRIMINATION—REBATES, ETC., EXCHANGE OF TRANSPORT
TION FOR ADVERTISING.] No public utility, or any officer or agent there
or any person acting for or employed by it, shall directly or indirectl
by any device or means whatsoever, suffer or permit any corporati
or person to obtain any service, commodity, or product at less than t
rate or other charge then established and in force as shown by t
schedules filed and in effect at the time. No person or corporati
shall, directly or indirectly, by any device or means, whatsoev
whether with or without the consent or connivance of a public utili
or any of its officers, or employees, seek to obtain or obtain any servi
commodity, or product at less than the rate or other charge then esta
lished and in force therefor: *Provided*, however, that nothing in th
Act contained shall be construed to prevent any railroad or transport
tion company from selling or granting transportation or transportati
privileges to the owner or owners of any newspaper or magazine
general circulation in payment of or in exchange for advertising spa
in such newspaper or magazine, at the full value thereof. *And, pr
vided, further*, that nothing in this Act contained shall be constru
to prevent the issuance of free or reduced transportation by any str
railroad corporation to mail carriers, policemen and members of f
departments. [As amended by Act approved June 29, 1915.

§ 40. LONG AND SHORT HAUL, ETC.—COMMON CARRIERS, TEL
PHONES, TELEGRAPH, ETC.] No common carrier subject to the pr
visions of this Act shall charge or receive any greater compensati
in the aggregate for the transportation of persons or of a like kind

property for a shorter than for a longer distance over the same line or route in the same direction within this State, the shorter being included within the longer distance, or charge any greater compensation as a through rate than the aggregate of the intermediate rates; but this shall not be construed as authorizing any such common carrier to charge or receive as great a compensation for a shorter as for a longer distance or haul. Upon application to the commission, any common carrier may, in special cases, after investigation, be authorized by the commission to charge less for a longer than for a shorter distance for the transportation of persons or property, and the commission may from time to time prescribe the extent to which such carrier may be relieved from the operation and requirements of this section.

No telephone or telegraph company subject to the provisions of this Act shall charge or receive any greater compensation in the aggregate for the transmission of any long distance message or conversation for a shorter than for a longer distance over the same line or route in the same direction, within this State, the shorter being included within the longer distance, or charge any greater compensation for a through service than the aggregate of the intermediate rates or tolls: but this shall not be construed as authorizing any such telephone or telegraph company to charge and receive as great a compensation for a shorter as for a longer distance. Upon application to the commission, a telephone or telegraph company may, in special cases, after investigation, be authorized by the commission to charge less for a longer than for a shorter distance service for the transmission of messages or conversations, and the commission may from time to time prescribe the extent to which such telephone or telegraph company may be relieved from the operation and requirements of this section.

No other public utility shall without the consent of the commission, charge or receive any greater compensation in the aggregate for a lesser commodity, product, or service than for a greater commodity, product or service of like character.

§ 41. COMMISSION TO FIX RATES AND REGULATIONS.] Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that the rates or other charges, or classifications, or any of them, demanded, observed, charged or collected by any public utility for any service or product or commodity, or in connection therewith, including the rates or fares for excursion or commutation tickets, or that the rules, regulations, contracts, or practices, or any of them, affecting such rates or other charges, or classifications, or any of them, are unjust, unreasonable, discriminatory or preferential, or in any wise in violation of any provision of law, or that such rates or other charges, or classification are insufficient, the commission shall determine the just, reasonable or sufficient rates or other charges, classifications, rules, regulations, contracts or practices to be thereafter observed and in force, and shall fix the same by order as hereinafter provided.

The commission shall have power, upon a hearing, had upon its own motion or upon complaint, to investigate a single rate or other

charge, classification, rule, regulation, contract or practice, or any number thereof, or the entire schedule or schedules of rates or other charges, classifications, rules, regulations, contracts and practices, or any thereof, of any public utility, and to establish new rates or other charges, classifications, rules, regulations, contracts or practices, or schedule or schedules, in lieu thereof: *Provided,* that nothing in this section or Act shall be construed to repeal "An Act to establish and regulate the maximum rate of charges for the transportation of passengers by corporations or companies operating or controlling railroads in part or in whole in this State, and to provide penalties for the violation of the provisions thereof, and repealing all Acts and parts of Acts in conflict therewith," approved May 27, 1907, in force July 1, 1907.

§ 42. CONTROL OVER JOINT RATES.] Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that the rates or other charges, or classifications in force over two or more common carriers, between any two points in this State, are unjust, unreasonable or excessive, or that no satisfactory through route or joint rate or other charge, or classification exists between such points, and that the public convenience and necessity demand the establishment of a through route and joint rate or other charge, or classification between such points, the commission may order such common carriers to establish such through route and may establish and fix a joint rate or other charge, or classification, which will be just and reasonable, to be followed, charged, enforced, demanded and collected in the future, and the terms and conditions under which such through route shall be operated. The commission may order that freight moving between such points shall be carried by the different common carriers, parties to such through route and joint rate, without being transferred from the originating cars. In case the common carriers do not agree upon the division between them of the joint rates or other charges established by the commission over such through routes, the commission shall, after hearing, by supplemental order, establish such division: *Provided,* that where any railroad which is made a party to a through route has itself over its own line an equally satisfactory through route between the termini of the through route established, such railroad shall have the right to require as its division of the joint rate or other charge its local rate or other charge over the portion of its lines comprised in such through route, and the commission may, in its discretion, allow to such railroad more than its local rate or other charge whenever it will be equitable so to do: *And, provided,* that the shipper shall have the right to route his freight whenever through rates shall have been established either by the commission or by the common carrier.

The commission shall also have power, after a hearing had upon its own motion or upon complaint, to order any other public utilities to establish and fix reasonable and sufficient joint rates or other charges, or classifications. In case such public utilities do not agree upon the division between them of such joint rates or other charges the commission shall, after hearing, establish such division by supplemental order.

§ 43. INTERSTATE RATES.] The commission shall have the power to investigate all existing or proposed interstate rates or other charges,

and classifications, and all rules and practices in relation thereto, of any public utility, where any act in relation thereto shall take place within this State; and when the same are, in the opinion of the commission, excessive or discriminatory or in violation of the Act of Congress entitled, "An Act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and the Acts amendatory thereof and supplementary thereto, or of any other Act of Congress, or in conflict with the rulings, orders or regulations of the Interstate Commerce Commission, the commission may apply by petition or otherwise to the Interstate Commerce Commission or to any court of competent jurisdiction for relief.

§ 44. INTERCHANGE OF TRAFFIC OR SERVICE.] Every common carrier shall afford all reasonable, proper and equal facilities for the prompt and efficient interchange and transfer of passengers, tonnage and cars, loaded or empty, between the lines owned, operated, controlled or leased by it and the lines of every other common carrier, and shall make such interchange and transfer promptly without discrimination between shippers, passengers or carriers either as to compensation charged, service rendered or facilities afforded. Every railroad company shall receive from every other railroad company having the same guage track, at any point of connection, freight cars of proper standard and in proper condition, and shall haul the same either to destination, if the destination be upon a line owned, operated or controlled by such railroad company, or to point of transfer according to route billed, if the destination be upon the line of some other railroad company. But nothing in this Act shall be construed as requiring any common carrier to give the use of its terminal facilities to another common carrier engaged in like business.

Every telephone company and telegraph company operating in this State shall receive, transmit and deliver, without discrimination or delay, the conversations and messages of every other telephone or telegraph company with which a joint rate has been established or with whose line a physical connection may have been made.

§ 45. SIDE TRACK CONNECTIONS.] Every railroad company, upon the application of any corporation or person, being a shipper or receiver or contemplated shipper or receiver of freight, or of any corporation, person or municipal corporation owning, operating or controlling any wharf or harbor facilities, for a connection between the railroad of such railroad company and any existing or contemplated track, tracks or railroad of such corporation, person or municipal corporation, shall make such connection and provide such switches and tracks as may be necessary for that purpose and deliver and receive cars thereover: *Provided,* that such connection is reasonably practicable and can be installed and used without materially increasing the hazard of the operation of the railroad with which such connection is sought, and that the business which may reasonably be expected to be received by such railroad company over such connection is sufficient to justify the expense of such connection to such railroad company.

Under the conditions specified in the above proviso every railroad company, upon the application of any corporation or person, being a shipper or receiver or contemplated shipper or receiver of freight, shall construct upon its right of way a spur or spurs for the purpose of

receiving and delivering freight thereby, and shall receive and deliver freight thereby.

Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that application has been made by any corporation or person to a railroad company for a connection or spur as provided in this section, and that the railroad company has refused to provide such connection or spur and that the applicant is entitled to have the same provided for him, the commission shall make an order requiring the providing of such connection or spur and the maintenance and use of the same upon reasonable terms which the commission shall have the power to prescribe. Whenever any such connection or spur has been so provided, any corporation or person shall be entitled to connect with the track, tracks or railroad thereby connected with the railroad of the railroad company and to use the same or to use the spur so provided upon payment to the party or parties incurring the primary expense of such track, tracks or railroad, or the connection therewith or of such spur, of a reasonable proportion of the cost thereof to be determined by the commission after notice to the interested parties and a hearing thereon: *Provided*, that such connection and use can be made without unreasonable interference with the rights of the party or parties incurring such primary expense. The commission shall likewise have the power to require one railroad company to switch to private spurs and industrial tracks upon its own railroad the cars of a connecting railroad company and to prescribe the terms and compensation for such service.

§ 46. TRACK CONNECTIONS.] Whenever the commission shall find, after a hearing made upon complaint or upon its own motion, that the public convenience and necessity would be subserved by having track connections made, between any two or more railroads or between any two or more street railroads, the commission shall order and such railroads or street railroads of the same or similar gauge to make physical connections at any and all crossings, and at all points where a railroad shall begin or terminate at or near any other railroad, and at all towns or cities where two or more railroads enter the limits of the same, so that the cars of any such railroad company may be speedily transferred from one railroad to another, and shall order whether the expense thereof shall be borne jointly or otherwise.

§ 47. TELEPHONE AND TELEGRAPH CONNECTIONS.] Whenever the commission, after a hearing had upon its own motion or upon complaint, shall determine that public convenience and necessity require a physical connection for the establishment of a continuous line of communication between any two or more public utilities for the conveyance of messages or conversations, the commission may, by order, require that such connection be made. If such public utilities do not agree upon the division between them of the cost of such physical connection or connections, the commission shall have authority, after further hearing, to establish such division by supplemental order.

§ 48. JOINT USE OF FACILITIES.] Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that public convenience and necessity require the use by one public utility of the conduits, subways, tracks, wires, poles, pipes or other property or equipment, or any part thereof, on, over or under any street or high-

way, belonging to another public utility, and that such use will not prevent the owner or other users thereof from performing their public duties nor result in irreparable injury to such owner or other users of such conduits, subways, tracks, wires, poles, pipes or other property or equipment, or in any substantial detriment to the service, and that such public utilities have failed to agree upon such use, or the terms and conditions or compensation for the same, the commission may, by order, direct that such use be permitted and prescribe a reasonable compensation and reasonable terms and conditions for such joint use. If such use be directed, the public utility to whom the use is permitted shall be liable to the owner or other users of such conduits, subways, tracks, wires, poles, pipes or other property or equipment, for such damage as may result therefrom to the property of such owner or other users thereof: *Provided*, that nothing in this section shall be construed to extend the jurisdiction of the commission over the joint use of such facilities of public utilities mainly or primarily within a city and subject to the jurisdiction of such city.

§ 49. FACILITIES, ETC.—POWER OF COMMISSION TO REQUIRE.] Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that the rules, regulations, practices, equipment, appliances, facilities or service of any public utility, or the methods of manufacture, distribution, transmission, storage or supply employed by it, are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine the just, reasonable, safe, proper, adequate or sufficient rules, regulations, practices, equipment, appliances, facilities, service or methods to be observed, furnished, constructed, enforced or employed and shall fix the same by its order, decision, rule or regulation. The commission shall prescribe rules and regulations for the performance of any service or the furnishing of any commodity of the character furnished or supplied by any public utility.

§ 50. ADDITIONS AND NEW STRUCTURES—JOINT CONSTRUCTION.] Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that additions, extensions, repairs or improvements to, or changes in, the existing plant, equipment, apparatus, facilities or other physical property of any public utility or of any two or more public utilities ought reasonably to be made, or that a new structure or structures should be erected, to promote the security or convenience of its employees or the public, or in any other way to secure adequate service or facilities, the commission shall make and serve an order directing that such conditions, extensions, repairs, improvements or changes to be made or such structure or structures be erected in the manner and within the time specified in said order. If any additions, extensions, repairs, improvements or changes, or any new structure or structures which the commission has ordered to be erected, require joint action by two or more public utilities, the commission shall notify the said public utilities that such additions, extensions, repairs, improvements or changes or new structure or structures have been ordered and that the same shall be made at their joint cost, whereupon the said public utilities shall have such reasonable time as the commission may grant within which to agree upon the portion or division of cost of such additions, extensions, repairs, improvements

or changes or new structure or structures, which each shall bear. If at the expiration of such time such public utilities shall fail to file with the commission a statement that an agreement has been made for a division or apportionment of the cost or expense of such additions, extensions, repairs, improvements or changes, or new structure or structures, the commission shall have authority, after further hearing, to make an order fixing the proportion of such cost or expense to be borne by each public utility and the manner in which the same shall be paid or secured.

§ 51. ADEQUACY OF RAILROAD SERVICE.] Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that any railroad or street railroad company does not run a sufficient number of trains or cars, or possess or operate sufficient motive power, reasonably to accommodate the traffic, passenger or freight, transported by or offered for transportation to it, or does not run its trains or cars with sufficient frequency or at a reasonable or proper time having regard to safety, or does not stop the same at proper places, or does not run any train or trains, car or cars, upon a reasonable time schedule for the run, the commission shall have power to make an order directing any such railroad or street railroad company to increase the number of its trains or of its cars or its motive power or to change the time for starting its trains or cars or to change the time schedule for the run of any train or car, or to change the stopping place or places thereof, or to make any other order that the commission may determine to be reasonably necessary to accommodate and transport the traffic, passenger or freight, transported or offered for transportation.

§ 52. DISTRIBUTION OF CARS—EXPEDITING TRAFFIC—DEMURRAGE—STORAGE—SWITCHING—DELIVERY OF EXPRESS—WEIGHTS.] Every railroad company shall, when within its powers to do so, and upon reasonable notice, furnish suitable cars to any and all persons who may apply therefor, for the transportation of any and all kinds of freight in carload lots, and shall use reasonable diligence in moving freight and making deliveries thereof. In case of insufficiency of cars at any time to meet all requirements, such cars as are available shall be distributed among the several applicants therefor in proportion to their respective immediate requirements without discrimination between shippers, localities or competitive or non-competitive places: *Provided, however*, that preference may be given to shipments of live stock and perishable property. The commission, after a hearing upon its own motion or upon complaint, may issue orders concerning the distribution of cars.

The commission shall have power to fix and establish reasonable rates, rules and regulations regarding demurrage, storage, icing and all other charges incident to the transportation of property, and to fix and establish reasonable switching rules and regulations, and to establish reasonable limits for said switching and reasonable rates therefor; and shall have power to provide by proper rules and regulations the time within which all railroads shall furnish after demand therefor, all cars, equipment and facilities necessary for the handling of freight, in carload and less than carload lots, the time within which consignors and persons ordering cars shall load the same, and the time within which

consignees and persons to whom freight may be consigned shall unload and discharge the same and receive freight from the freight rooms, and to provide penalties to be paid for failure on the part of the railroads, consignors and consignees to conform to such rules. The commission shall also have power to provide the time within which express packages shall be received, gathered, transported and delivered at destination, and the limits within which express packages shall be gathered and distributed and telegraph and telephone messages delivered without extra charge.

The commission shall have power to enforce reasonable regulations for the weighing of cars, and of freight offered for shipment over any line of railroad, and to test the weights made by any railroad and scales used in weighing freight on cars.

§ 53. CONDITIONS IN CONTRACTS FOR PUBLIC UTILITY SERVICES AND FORMS OF EXPRESS RECEIPTS.] The commission is authorized to make rules and regulations concerning the conditions to be contained in and become a part of contracts for public utility services, and any and all services concerning the same, or connected therewith.

The commission shall have authority to prescribe a form of receipt for each shipment by express, also a form of receipt for moneys paid for charges for the transportation by express of any article or thing, to be given upon receipt, or upon the payment of such charges.

Upon demand of a shipper each receiving or forwarding express company shall be required to furnish a receipt or other evidence in writing, in such form as may be prescribed by or approved of by said commission, stating the quantity, character, weight, order and condition of goods or articles tendered for shipment, and said express companies shall in like manner execute and furnish upon demand a receipt for the charges paid on any shipment, which shall cover substantially the following items: Date of shipment; name of consignor; name of connecting line or express company; name or description of each article or package covered by or in such receipt; the graduate scale or rate employed in making the rate or charge on such article or package, separately; the amount of charge on each article or package; the amount of advance charges (if any); the sum total of charges to be paid by the consignee. And any such express company is hereby prohibited from including in any such receipt for shipments to be made any restriction or evasion of the common law liability of such carrier.

§ 54. STANDARDS OF SERVICE.] The commission shall have power to ascertain, determine and fix for each kind of public utility suitable and convenient standard commercial units of service, product or commodity, which units shall be lawful units for the purposes of this Act; to ascertain, determine and fix adequate and serviceable standards for the measurement of quantity, quality, pressure, initial voltage or other condition pertaining to the performing of its service or to the furnishing of its product or commodity by any public utility, and to prescribe reasonable regulations for examining, measuring and testing such service, product or commodity, and to establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for examining, measuring, or testing such service, product or commodity. The commission may purchase such materials,

apparatus and standard measuring instruments as it deems necessary to carry out the provisions of this section.

The commission shall provide for the inspection of the manner in which every public utility conforms to the reasonable regulations prescribed by the commission for examining, measuring and testing its service, product or commodity, and the commission may supplement such inspections by examining, measuring and testing the service, product or commodity of any public utility. Any consumer or user may have tested any appliance for examining, measuring or testing any such service, product or commodity upon payment of the fees fixed by the commission. The commission shall declare and establish reasonable fees to be paid for examining and testing such appliances on the request of consumers or users, the fee to be paid by the consumer or user at the time of his request, but to be paid by the public utility and repaid to the consumer or user if the measuring appliance be found unreasonably defective or incorrect to the disadvantage of the consumer or user.

The commission, its officers, agents, experts or inspectors and employees shall have power to enter upon any premises occupied by any public utility for the purpose of making the examinations and tests provided in this Act, and to set up and use on such premises any apparatus and appliances and occupy reasonable space therefor.

Nothing contained in this section shall limit in any manner any powers or authority vested in cities by Article VI of this Act, when such cities have acted pursuant to such authority.

§ 55. CERTIFICATE OF CONVENIENCE AND NECESSITY.] No public utility shall begin the construction of any new plant, equipment, property or facility which is not in substitution of any existing plant, equipment, property or facilities or in extension thereof or in addition thereto, unless and until it shall have obtained from the commission a certificate that public convenience and necessity require such construction.

No public utility not owning any city or village franchise nor engaged in performing any public service or in furnishing any product or commodity within this State at the time this Act goes into effect shall transact any business in this State until it shall have obtained a certificate from the commission that public convenience and necessity require the transaction of such business.

Whenever after a hearing the commission determines that any new construction or the transaction of any business by a public utility will promote the public convenience and is necessary thereto it shall have the power to issue certificates of public convenience and necessity.

Such certificates may be altered or modified by the commission, upon its own motion or upon application by the person or corporation affected. Unless exercised within a period of two years from the grant thereof authority conferred by a certificate of convenience and necessity issued by the commission shall be null and void.

§ 56. REPORT AND INVESTIGATION OF ACCIDENTS.] Every public utility shall file with the commission, under such rules and regulations as the commission may prescribe, a report of every accident occuring, or that may occur, to or on its plant, equipment, or other property of such a nature as to endanger the safety, health or property of any

erson: *Provided*, that whenever any accident occasions the loss of fe or limb to any person, such public utility shall immediately give otice to the commission of the fact by the speediest means of com- unication, whether telephone, telegraph or post.

The commission shall investigate all accidents occurring within his State upon the property of any public utility or directly or indi- ectly arising from or connected with its maintenance or operation, esulting in loss of life or injury to person or property and requiring, n the judgment of the commission, investigation by it, and shall have he power to make such order or recommendation with respect thereto s in its judgment may seem just and reasonable: *Provided*, that either the order or recommendation of the commission nor any acci- lent report filed with the commission shall be admitted in evidence in ny action for damages based on or arising out of the loss of life, or njury to person or property, in this section referred to.

§ 57. SAFETY OF PLANT, APPLIANCES, ETC., RAILROAD TRACK, ETC.] The commission shall have power, after a hearing and upon its own notion or upon complaint, by general or special orders, rules or regula- ions, or otherwise, to require every public utility to maintain and oper- te its plant, equipment or other property in such manner as to promote nd safeguard the health and safety of its employees, passengers, cus- omers, and the public, and to this end to prescribe, among other things, he installation, use, maintenance and operation of appropriate safety or other devices or appliances, including interlocking and other pro- ective devices at grade crossings or junctions and block or other sys- ems of signaling, to establish uniform or other standards of equip- ment, and to require the performance of any other act which the health or safety of its employees, passengers, customers or the public may demand.

Whenever it shall come to the knowledge of the commission that the equipment or appliances, or the apparatus, track, bridges, trestles or other structures of any common carrier are out of repair or in an unsafe condition, it shall, after an investigation, give notice in writing to the common carrier of the improvements and changes deemed nec- essary to place the same in a safe condition, and shall recommend to the common carrier that it make such repairs, changes, improvements or new constructions as the commission shall deem necessary to the safety of persons and property being transported thereon. The com- mission shall give such common carrier an opportunity for a full hear- ing, and unless the common carrier shall satisfy the commission that no action is required to be taken with respect to any or all of such matters the commission shall fix a time within which repairs, changes, improvements or new constructions deemed by it necessary shall be made. The commission may also prescribe the rate of speed for trains or cars passing over defective tracks, bridges, trestles or other struct- ures until repairs or new constructions required are made; and may, if, in its opinion, it is needful or proper, forbid the running of trains or cars over any defective track, bridge, trestle or other structure until the same be repaired and placed in a safe condition.

§ 58. GRADE CROSSINGS.] No public road, highway or street shall hereafter be constructed across the track of any railroad company at grade, nor shall the track of any railroad company be constructed

across a public road, highway or street at grade nor shall the track of any railroad company be constructed across the track of any other railroad or street railroad company at grade, nor shall the track of a street railroad company be constructed across the track of a railroad company at grade, without having first secured the permission of the commission: *Provided,* that this section shall not apply to the replacement of lawfully existing roads, highways and tracks. The commission shall have the right to refuse its permission or to grant it upon such terms and conditions as it may prescribe. The commission shall have power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use and protection of each such grade crossing.

The commission shall also have power, after a hearing, to alter or abolish any grade crossing, heretofore or hereafter established, when in its opinion the public safety requires such alteration or abolition, or to require a separation of grades at any such crossing; and to prescribe, after a hearing of the parties, the terms upon which such separation shall be made and the proportions in which the expense of the alteration or abolition of such crossings or the separation of such grades shall be divided between the railroad or street railroad companies affected or between such companies and the State, county, municipality or other public authority in interest: *Provided,* that nothing in this Act shall be construed to repeal an Act in relation to the crossing of one railroad by another, approved May 25, 1907, and in force July 1, 1907.

§ 59. EMINENT DOMAIN.] When necessary for the construction of any alterations, additions, extensions or improvements ordered or authorized under sections 50 or 58 or subdivision two (2) of section 81 of this Act, any public utility may enter upon, take or damage private property in the manner provided for by the law of eminent domain.

ARTICLE V.

PROCEEDINGS BEFORE THE COMMISSION AND IN THE COURTS.

§ 60. INVESTIGATIONS AND HEARINGS.] The commission, or any commissioner, or officer of the commission designated by the commission, shall have power to hold investigations, inquiries and hearings concerning any matters covered by the provisions of this Act, or by any other Act relating to public utilities, subject to such rules and regulations as the commission may establish. In the conduct of any investigation, inquiry or hearing neither the commission nor any commissioner or officer of the commission shall be bound by the technical rules of evidence, and no informality in any proceeding or in the manner of taking testimony before the commission, any commissioner or an officer of the commission shall invalidate any order, decision, rule or regulation made, approved, or confirmed by the commission. All hearings conducted by the commission shall be open to the public.

Each commissioner, the secretary of the commission, and every officer of the commission designated by it to hold any inquiry, investigation or hearing, shall have power to administer oaths and affirmations, certify to all official acts, issue subpoenas, compel the attend-

ance and testimony of witnesses, and the production of papers, books, accounts and documents.

§ 61. TESTIMONY—IMMUNITY.] No person shall be excused from testifying or from producing any papers, books, accounts or documents in any investigation or inquiry or upon any hearing ordered by the commission, when ordered to do so by the commission or any commissioner, or officer of the commission, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a penalty or forfeiture. But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce evidence, documentary or otherwise, before the commission or a commissioner or an officer of the commission: *Provided,* that such immunity shall extend only to a natural person, who in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise, under oath. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

§ 62. ATTENDANCE OF WITNESSES—PRODUCTION OF PAPERS.] All subpoenas issued under the terms of this Act may be served by any person of full age. The fees of witnesses for attendance and travel shall be the same as fees of witnesses before the circuit courts of this State, such fees to be paid when the witness is excused from further attendance, when the witness is subpoenaed at the instance of the commission or any commissioner; and the disbursements made in the payment of such fees shall be audited and paid in the same manner as are other expenses of the commission. Whenever a subpoena is issued at the instance of a complainant, respondent, or other party to any proceeding before the commission, the commission may require that the cost of service thereof and the fee of the witness shall be borne by the party at whose instance the witness is summoned, and the commission shall have power, in its discretion, to require a deposit to cover the cost of such service and witness fees and the payment of the legal witness fee and mileage to the witness when served with subpoena. A subpoena issued as aforesaid shall be served in the same manner as a subpoena issued out of a court of record.

Any person who shall be served with a subpoena to appear and testify, or to produce books, papers, accounts or documents, issued by the commission or by any commissioner or officer of the commission, in the course of an inquiry, investigation or hearing conducted under any of the provisions of this Act, and who shall refuse or neglect to appear, or to testify, or to produce books, papers, accounts and documents relevant to said inquiry, investigation or hearing as commanded in such subpoena, shall be guilty of a misdemeanor.

Any circuit court of this State, or any judge thereof, either in term time or vacation, upon application of the commission, or a commissioner, or officer of the commission, may, in his discretion, compel the attendance of witnesses, the production of books, papers, accounts and documents, and the giving of testimony before the commission, or before any such commissioner or officer, by an attachment for contempt or otherwise, in the same manner as production of evidence may be compelled before said court.

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The commission or a commissioner or any officer of the commission or any party may in any investigation or hearing before the commission, cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in the courts of this State and to that end may compel the attendance of witnesses and the production of papers, books, accounts, and documents.

The commission may require, by order served on any public utility in the manner provided herein for the service of orders, the production within this State at such time and place as it may designate, of any books, accounts, papers or documents kept by any public utility operating within this State in any office or place without this State, or, at its option, verified copies in lieu thereof, so that an examination thereof may be made by the commission or under its direction.

§ 63. RIGHT TO INSPECT BOOKS AND PROPERTY AND TO EXAMINE AGENTS OF PUBLIC UTILITIES.] The commission, each commissioner and each officer and person employed by the commission shall have the right, at any and all times, to inspect the papers, books, accounts and documents, plant, equipment or other property of any public utility, and the commission, each commissioner and any officer of the commission authorized to administer oaths shall have power to examine under oath any officer, agent or employee of such public utility in relation to any matter within the jurisdiction of the commission: *Provided,* that any person other than a commissioner demanding such inspection shall produce under the seal of the commission his authority to make such inspection: *And, provided, further,* that a written record of the testimony or statement so given under oath shall be made and filed with the commission. Information so obtained shall not be admitted in evidence or used in any proceeding except in proceedings provided for in this Act.

§ 64. COMPLAINTS—NOTICE.] Complaint may be made by the commission, of its own motion or by any person or corporation, chamber of commerce, board of trade, or any industrial, commercial, mercantile, agricultural or manufacturing society, or any body politic or municipal corporation by petition or complaint in writing, setting forth any act or thing done or omitted to be done in violation, or claimed to be in violation, of any provision of this Act, or of any order or rule of the commission. All matters upon which complaint may be founded may be joined in one hearing, and no motion shall be entertained against a complaint for misjoinder of complaints or grievances or misjoinder of parties; and in any review by the courts of orders of the commission the same rule shall apply and pertain with regard to the joinder of complaints and parties as herein provided. No complaint shall be dismissed because of the absence of direct damage to the complainant.

Upon the filing of a complaint the commission shall cause a copy thereof to be served upon the person or corporation complained of, which shall be accompanied by a notice requiring that the complaint be satisfied and answered within a reasonable time to be specified by the commission, or within the discretion of the commission, by a notice fixing a time when and place where a hearing will be had upon such complaint. Notice of the time and place shall also be given to the

complainant and to such other persons as the commission shall deem necessary. The commission shall have authority to hear and investigate any complaint, notwithstanding the fact that the person or corporation complained of may have satisfied the complaint.

The time fixed for such hearing shall not be less than ten days after the date of the service of such notice and complaint except as herein provided. Service in all hearings, investigations, and proceedings before the commission may be made upon any person upon whom a summons may be served in accordance with the provisions of an Act entitled, "An Act in relation to practice and procedure in courts of record," approved June 3, 1907, in force July 1, 1907, and may be made personally or by mailing same in the United States mail in a sealed envelope, registered, with postage prepaid. The provisions of this section as to notice shall apply to all hearings held by the commission or under its authority.

Any public utility shall have a right to complain on any of the grounds upon which complaints are allowed to be filed by other parties, and the same procedure shall be adopted and followed as in other cases except that the complaint may be heard *ex parte* by the commission or may be served upon any parties designated by the commission.

§ 65. HEARINGS—ORDERS—RECORD—COPIES OF OFFICIAL DOCUMENTS AND ORDERS.] At the time fixed for any hearing upon a complaint, the complainant and the person or corporation complained of, and such persons or corporations as the commission may allow to intervene, shall be entitled to be heard and to introduce evidence. The commission shall issue process to enforce the attendance of all necessary witnesses. At the conclusion of such hearing the commission shall make and render findings concerning the subject-matter and facts inquired into and enter its order based thereon. A copy of such order, certified under the seal of the commission, shall be served upon the person or corporation complained of, or his or its attorney, which order shall, of its own force, take effect and become operative twenty days after the service thereof, except as otherwise provided, and shall continue in force either for a period which may be designated therein or until changed or abrogated by the commission. Where an order cannot, in the judgment of the commission be complied with within twenty days, the commission may prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order. A full and complete record shall be preserved of all proceedings had before the commission, or any member thereof, on any formal hearing had, and all testimony shall be taken down by a stenographer appointed by the commission, and the parties shall be entitled to be heard in person or by attorney.

In case of an appeal from any order or decision of the commission, under the terms of sections 68 and 69 of this Act, a transcript of such testimony, together with all exhibits or copies thereof introduced and all information secured by the commission on its own initiative and considered by it in rendering its order or decision,

and of the pleadings, record and proceedings in the case, shall constitute the record of the commission: *Provided,* that on appeal from an order or decision of the commission, the person or corporation taking the appeal and the commission may stipulate that a certain question or certain questions alone and a specified portion only of the evidence shall be certified to the court for its judgment, whereupon such stipulation and the question or questions and the evidence therein specified shall constitute the record on appeal.

Copies of all official documents and orders filed or deposited according to law in the office of the commission, certified by a commissioner or by the secretary of the commission to be true copies of the originals, under the official seal of the commission, shall be evidence in like manner as the originals.

In any matter concerning which the commission is authorized to hold a hearing, upon complaint or application or upon its own motion, notice shall be given to the public utility and to such other interested persons as the commission shall deem necessary in the manner provided in the preceding section, and the hearing shall be conducted in like manner as if complaint had been made to or by the commission. But nothing in this Act shall be taken to limit or restrict the power of the commission, summarily, of its own motion, with or without notice, to conduct any investigations or inquiries authorized by this Act, in such manner and by such means as it may deem proper, and to take such action as it may deem necessary in connection therewith. With respect to any rules, regulations, decisions or orders, which the commission is authorized to issue without a hearing, and so issues, any public utility or other person or corporation affected thereby and deeming such rules, regulations, decisions or orders, or any of them, improper, unreasonable or contrary to law, may apply for a hearing thereon, setting forth specifically in such application every ground of objection which the applicant desires to urge against such rule, regulation, decision or order. The commission may, in its discretion, grant or deny the application, and a hearing, if had, shall be subject to the provisions of this and the preceding sections.

§ 66. SERVICE OF ORDERS.] Every order of the commission shall be served upon every person or corporation to be effected thereby, either by personal delivery of a ceritfied copy thereof, or by mailing in the United States mail a certified copy thereof, in a sealed package with postage prepaid, to the person to be affected thereby or in the case of a corporation, to any officer or agent thereof upon whom a summons of a court of record may be served in an action at law. It shall be the duty of every person and corporation to notify the commission forthwith, in writing, of the receipt of the certified copy of every order so served, and in the case of a corporation such notification must be signed and acknowledged by a person or officer duly authorized by the corporation to admit such service. Within a time specified in the order of the commission every person and corporation upon whom it is served must, if so required in the order, notify the commission in like manner whether the terms of the order are accepted and will be obeyed.

§ 67. MODIFICATION OF ORDER OR DECISION—REHEARING.] The ommission may at any time, upon notice to the public utility ffected, and after opportunity to be heard as provided in the case f complaints, rescind, alter or amend any rule, regulation, order r decision made by it. Any order rescinding, altering or amend- ng a prior rule, regulation, order or decision shall, when served pon the public utility affected, have the same effect as is herein rovided for original rules, regulations, orders or decisions.

After any rule, regulation, order or decision has been made by he commission, any party to the action or proceeding, or any stock- older or bondholder or other party pecuniarily interested in the ublic utility affected, may apply for a rehearing in respect to any natters determined in said action or proceeding and specified in the pplication for rehearing, and the commission may grant and hold uch rehearing on said matters, if in its judgment sufficient reason herefor be made to appear. An application for rehearing shall not excuse any corporation or person from complying with and obey- ng any rule, regulation, order or decision or any requirement of ny rule, regulation, order or decision of the commission thereto- ore made, or operate in any manner to stay or postpone the en- orcement thereof, except in such cases and upon such terms as the ommission may by order direct. If, after such rehearing and con- ideration of all the facts, including those arising since the making f the rule, regulation, order or decision, the commission shall be f the opinion that the original rule, regulation, order or decision or ny part thereof is in any respect unjust or unwarranted, or should e changed, the commission may rescind, alter or amend the same. A rule, regulation, order or decision made after such rehearing, rescinding, altering or amending the original rule, regulation, order or decision shall have the same force and effect as an original rule, regulation, order or decision, but shall not affect any right or the enforcement of any right arising from or by virtue of the original rule, regulation, order or decision unless so ordered by the com- mission. Only one rehearing shall be granted by the commission; but this shall not be construed to prevent any party from filing a petition setting up a new and different state of facts after two years, and invoking the action of the commission thereon.

§ 68. ACTION TO SET ASIDE ORDERS OF COMMISSION.] Within thirty days after the service of any order or decision of the commission made after a final hearing, or within thirty days after a hearing or refusal of a hearing upon any rule, regulation, order or decision which the commission is authorized to issue without a hearing and has so issued, any person or corporation affected by such rule, regulation, order or decision may appeal to the circuit court of Sangamon county, for the purpose of having the reasonableness or lawfulness of the rule, regulation, order or decision inquired into and determined: *Provided,* that no proceeding to contest any rule, regulation, decision or order which the commission is authorized to issue without a hearing and has so issued, shall be brought in any court unless application shall have been first made to the com- mission for a hearing thereon and until after such application has

been acted upon by the commission, nor shall any person or corporation in any court urge or rely upon any grounds not set forth in such application for a hearing before the commission: *And, provided*, the commission shall decide the questions presented by said application with all possible expedition consistent with the duties of the commission. The party taking such an appeal shall file with the secretary of the commission, at its office in Springfield, Illinois, written notice of said appeal. The commission, upon the filing of such notice of appeal, shall, within five days thereafter, file with the clerk of said circuit court of Sangamon county a certified copy of the order appealed from and within ten days thereafter the record provided for in section 64. The party serving such notice of appeal shall, within five days after the service of such notice upon the commission, file a copy of said notice, with proof of service, with the clerk of said court to which such appeal is taken, and thereupon said circuit court shall have jurisdiction over said appeal and the same shall be entered upon the records of said circuit court and shall be tried therein without formal pleadings, but otherwise, according to the rules relating to the trial of chancery suits, so far as the same are applicable.

No new or additional evidence may be introduced in any proceedings upon appeal from a rule, regulation, order or decision of the commission, issued or confirmed after a hearing, but the appeal shall be heard on the record of the commission as certified to by it. The findings and conclusions of the commission on questions of fact shall be held *prima facie* to be true and as found by the commission; and a rule, regulation, order or decision of the commission shall not be set aside unless it clearly appears that the finding of the commission was against the manifest weight of the evidence presented to or before the commission for and against such rule, regulation, order or decision, or that the same was without the jurisdiction of the commission. If it appears that the commission failed to receive evidence properly proffered, on a hearing or on a rehearing, or on application therefor, the court shall remand the case to the commission with instructions to receive the testimony so proffered and rejected, and to enter a new order based upon the evidence theretofore taken, and such new evidence as it is directed to receive. Rules, regulations, orders or decisions of the commission shall be held to be *prima facie* reasonable, and the burden of proof upon all issues raised by the appeal shall be upon the person or corporation appealing from such rules, regulations, orders or decisions. Upon hearing any such appeal the court shall enter judgment either affirming or setting aside the rule, regulation, order or decision of the commission.

When no appeal is taken from a rule, regulation, order or decision of the commission, as herein provided, parties affected by such rule, regulation, order or decision, shall be deemed to have waived the right to have the merits of said controversy reviewed by a court and there shall be no trial of the merits of any controversy in which such rule, regulation, order or decision was made, by any court to which application may be made for a writ to enforce the same, in any other judicial proceeding.

§ 69. APPEALS TO SUPREME COURT.] Appeals from all final orders and judgments entered by the said circuit court, in review of rules, regulations, orders or decisions of the commission, may be taken directly to the Supreme Court by either party to the action, within sixty days after service of a copy of the order or judgment of said circuit court, and shall be governed by the rules applying to chancery cases appealed to said Supreme Court, except that formal pleadings shall not be required.

§ 70. EXPEDITION OF CASES.] Any proceeding in any court in this State directly affecting a rule, regulation, order or decision of the commission, or to which the commission is a party, shall have priority in hearing and determination over all other civil proceedings pending in such court, excepting election contests.

§ 71. SUSPENSION OF ORDER OF COMMISSION PENDING JUDICIAL REVIEW.] The pendency of an appeal shall not of itself stay or suspend the operation of the rule, regulation, order or decision of the commission, but during the pendency of such appeal the circuit court of Sangamon County, or the Supreme Court, as the case may be, in its discretion may stay or suspend, in whole or in part, the operation of the commission's rule, regulation, order or decision.

No order so staying or suspending a rule, regulation, order or decision of the commission shall be made by the court otherwise than upon three days' notice to the commission and after a hearing, and if the rule, regulation, order or decision of the commission is suspended, the order suspending the same shall contain a specific finding based upon evidence submitted to the court, and identified by reference thereto, that great or irreparable damage would otherwise result to the petitioner, and specifying the nature of the damage:

Provided, however, that when any rate or other charge has been in force for any length of time exceeding one year, and such rate or other charge is advanced by the public utility, and the order of the commission reinstates such prior rate or other charge, in whole or in part, no suspending order shall be allowed in any case from such order pending the final determination of the case in the circuit court, or if appealed to the Supreme Court by such Supreme Court.

In case the rule, regulation, order or decision of the commission is stayed or suspended, the order of the court shall not become effective until a suspending bond shall first have been executed and filed with, and approved by the commission (or approved, on review, by the court) payable to the people of the State of Illinois, and sufficient in amount and security to insure the prompt payment, by the party petitioning for the review, of all damages caused by the delay in the enforcement of the rule, regulation, order or decision of the commission, and of all moneys which any person or corporation may be compelled to pay, pending the review proceedings, for transportation, transmission, product, commodity, or service in excess of the charges fixed by the rule, regulation, order or decision of the commission, in case said rule, regulation, order or

decision is sustained. The court, in case it stays or suspends the rule, regulation, order or decision of the commission in any matter affecting rates or other charges, or classifications, may, in its discretion, also by order direct the public utility affected to pay into court, from time to time, thereto to be impounded until the final decision of the case, or into some bank or trust company paying interest on deposits, under such conditions as the court may prescribe, all sums of money which it may collect from any corporation or person in excess of the sum such corporation or person would have been compelled to pay if the rule, regulation, order or decision of the commission had not been stayed or suspended.

§ 72. REPARATION FOR OVERCHARGE — INVESTIGATION OF CLAIMS AGAINST PUBLIC UTILITIES.] When complaint has been made to the commission concerning any rate or other charge of any public utility and the commission has found, after a hearing, that the public utility has charged an excessive or unjustly discriminatory amount for its product, commodity or service, the commission may order that the public utility make due reparation to the complainant therefor, with interest at the legal rate from the date of paymen of such excessive or unjustly discriminatory amount.

If the public utility does not comply with an order of the commission for the payment of money within the time fixed in such order, the complainant or any person for whose benefit such order was made, may file in any court of competent jurisdiction a petition setting forth briefly the causes for which he claims damages and the order of the commission in the premises. Such suit shall proceed in all respects like other civil suits for damages, except that on the trial of such suit the order of the commission shall be *prima facie* evidence of the facts therein stated. If the petitioner shall finally prevail he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of the costs of the action.

All complaints for the recovery of damages shall be filed with the commission within two years from the time the product, commodity or service as to which complaint is made was furnished or performed, and a petition for the enforcement of an order of the commission for the payment of money shall be filed in the proper court within one year from the date of the order.

The remedy provided in this section shall be cumulative, and in addition to any other remedy or remedies in this Act provided in case of failure of a public utility to obey a rule, regulation, order or decision of the commission.

The commission shall have power to receive complaints regarding loss or damage occasioned by a public utility, and to make inquiry as to the methods of adjusting such claims. All claims against any public utility for loss of, or damage to, property, or for any other loss or damage, in connection with a public utility service, not covered by the preceding paragraphs of this section, if not acted upon within ninety days from the date of the filing of the claim with the public utility, may be investigated by the commission, in its discretion, and the results of such investigation shall be embodied in a special report which shall be open to public inspection.

§ 73. CIVIL DAMAGES.] In case any public utility shall do, cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall omit to do any act, matter or thing required to be done either by any provisions of this Act or any rule, regulation, order or decision of the commission, issued under authority of this Act, such public utility shall be liable to the persons or corporations affected thereby for all loss, damages or injury caused thereby or resulting therefrom, and if the court shall find that the act or omission was wilful, the court may in addition to the actual damages, award damages for the sake of example and by the way of punishment. An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any person or corporation.

In every case of a recovery of damages by any person or corporation under the provisions of this section, the plaintiff shall be entitled to a reasonable council's [counsel's] or attorney's fee to be fixed by the court, which fee shall be taxed and collected as part of the costs in the case.

No recovery as in this section provided shall in any manner affect a recovery by the State of the penalties in this Act provided.

§ 74. REMEDIES CUMULATIVE.] This Act shall not have the effect to release or waive any right of action by the State, the commission, or by any body politic, municipal corporation, person or corporation for any right or penalty which may have arisen or accrued or may hereafter arise or accrue under any law of this State.

All penalties accruing under this Act shall be cumulative of each other, and suit for the recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or be a bar to any criminal prosecution against any public utility, or any officer, director, agent or employee thereof, or any other corporation or person.

§ 75. MANDAMUS OR INJUNCTION PROCEEDINGS AT INSTANCE OF COMMISSION.] Whenever the commission shall be of the opinion that any public utility is failing or omitting or about to fail or omit, to do anything required of it by law, or by any order, decision, rule, regulation, direction or requirement of the commission, issued or made under authority of this Act, or is doing anything or about to do anything or permitting anything or about to permit anything to be done, contrary to or in violation of law or of any order, decision, rule, regulation, direction or requirement of the commission, issued or made under authority of this Act, it shall direct the counsel for the commission to commence an action or proceeding in the circuit court, or in any other court of concurrent jurisdiction, in and for the county in which the case or some part thereof arose, or in which the person or corporations complained of, if any, has its principal place of business, or in which the person complained of, if any, resides, in the name of the people of the State of Illinois, for the purpose of having such violations or threatened violations stopped and prevented, either by mandamus or injunction. Counsel for the commission shall thereupon begin such action or proceeding by petition to such circuit court, alleging the violation or threatened violation complained of, and praying for appropriate relief by way of mandamus or injunction. It shall thereupon

be the duty of the court to specify a time, not exceeding twenty days after the service of the copy of the petition, within which the public utility complained of must answer the petition, and in the meantime said public utility may be restrained. In case of default in answer, or after answer, the court shall immediately inquire into the facts and circumstances of the case. Such corporations or persons as the court may deem necessary or proper to be joined as parties, in order to make its judgment, order or writ effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that the writ of mandamus or injunction issue or be made permanent as prayed for in the petition, or in such modified or other form as will afford appropriate relief. An appeal may be taken from such final judgment in the same manner and with the same effect, subject to the provisions of this Act, as appeals are taken from judgments of the circuit court in other actions for mandamus or injunction.

§ 76. PENALTY FOR VIOLATION BY PUBLIC UTILITY OF CORPORATION OTHER THAN A PUBLIC UTILITY OF ACT OR ORDERS—SEPARATE OFFENSES.] Any public utility or any corporation other than a public utility, which violates or fails to comply with any provisions of this Act, or which fails to obey, observe or comply with any order, decision, rule, regulation, direction or requirement or any part or provision thereof, of the commission, made or issued under authority of this Act, in a case in which a penalty is not otherwise provided for in this Act, upon conviction, shall be punished by a fine of not less than five hundred dollars nor more than two thousand dollars for each and every offense.

Every violation of the provisions of this Act or of any order, decision, rule, regulation, direction or requirement of the commission, or any part or portion thereof by any corporation or person is a separate and distinct offense and in case of a continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense.

In construing and enforcing the provisions of this Act relating to penalties, the act, omission, or failure of any officer, agent, or employee of any public utility, acting within the scope of his official duties or employment, shall in every case be and be deemed to be the act, omission, or failure of such public utility.

§ 77. PERSONS VIOLATING ACT OR ORDER—PENALTY.] Every person, who, either individually, or acting as an officer, agent or employee of a public utility or of a corporation other than a public utility, violates or fails to comply with any provisions of this Act, or fails to observe, obey or comply with any order, decision, rule, regulation, direction or requirement, or any part or portion thereof, of the commission, made or issued under authority of this Act, or who procures, aids or abets any public utility in its violation of this Act or in its failure to obey, observe or comply with this Act or any such order, decision, rule, regulation, direction or requirement, or any part or portion thereof, in a case in which a penalty is not otherwise provided for in this Act, is guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding one thousand dollars, or by im-

isonment in a county jail not exceeding one year, or by both such
ie and imprisonment.

§ 78. ACTIONS TO RECOVER PENALTIES.] Except as otherwise pro-
ded in this Act, actions to recover penalties under this Act shall be
ought in the name of the People of the State of Illinois in the circuit
urt in and for the county in which the cause or some part thereof
ose, or in which the corporation complained of, if any, has its prin-
pal place of business, or in which the person, if any, complained of,
sides. Such action shall be commenced and prosecuted to final judg-
ent by the counsel for the commission. In any such action, all pen-
lies incurred up to the time of commencing the same may be sued
r and recovered. In all such actions, the procedure and rules of
idence shall be the same as in ordinary civil actions, except as other-
ise herein provided. All fines and penalties recovered by the State in
y such action shall be paid into the State treasury to the credit of the
neral fund. Any such action may be compromised or discontinued
application of the commission upon such terms as the court shall
prove and order.

§ 79. DUTY OF COMMISSION TO PROSECUTE AND TO ENFORCE LAWS
FECTING PUBLIC UTILITIES.] It is hereby made the duty of the com-
ission to see that the provisions of the Constitution and statutes of
is State affecting public utilities, the enforcement of which is not
ecifically vested in some other officer or tribunal, are enforced and
eyed, and that violations thereof are promptly prosecuted and pen-
ties due the State therefor recovered and collected, and to this end
may sue in the name of the people of the State.

§ 80. CANCELLATION OF WAREHOUSE LICENSES.] The commission
hereby authorized to hear and determine all applications for the can-
llation of warehouse licenses in this State which may be issued in
rsuance of any laws of this State, and for that purpose to make and
lopt such rules and regulations concerning such hearing and deter-
ination as may, from time to time, by it be deemed proper. And if,
on such hearing, it shall appear that any public warehouseman has
en guilty of violating any law of this State concerning the business
public warehousemen, the commission may cancel and revoke the
ense of said public warehouseman, and immediately notify the officer
ho issued such license of such revocation and cancellation; and no
rson whose license as a public warehouseman shall be cancelled or
voked shall be entitled to another license or to carry on the business
this State of such public warehouseman until the expiration of six
onths from the date of such revocation and cancellation, and until
shall have again been licensed: *Provided,* that this section shall
t be construed so as to prevent any such warehouseman from deliv-
ing any grain on hand at the time of such revocation or cancellation
his said license. And all licenses issued in violation of the provi-
ons of this section shall be deemed null and void.

ARTICLE VI.

REPEAL—SAVING CLAUSE—CONSTRUCTION.

§ 81. ACTS REPEALED—TRANSFER AND CONTINUATION OF POWER.]
n Act entitled, "An Act to establish a board of railroad and ware-
use commissioners, and prescribe their powers and duties," approved

April 13, 1871, in force July 1, 1871, together with the amendments thereto; and an Act entitled, "An Act defining and regulating express companies and carriers by express operating within the State of Illinois, declaring them to be common carriers and placing them under the jurisdiction and control of the Illinois Railroad and Warehouse Commission," approved June 9, 1911, in force July 1, 1911, are hereby repealed from and after the appointment of the State Public Utilities Commission herein created. Nothing in this Act shall be construed to repeal any other Act or part thereof conferring power on said Board of Railroad and Warehouse Commissioners except such as are in direct conflict herewith, but the rights, powers and duties conferred by law upon the Board of Railroad and Warehouse Commissioners shall be continued in full force and transferred to the State Public Utilities Commission, it being the intent of this Act to substitute the State Public Utilities Commission for the said Board of Railroad and Warehouse Commissioners.

On or before November 1, 1913, the Board of Railroad and Warehouse Commissioners shall transfer and deliver to the State Public Utilities Commission, upon its demand in writing, all books, papers and records, furniture, equipment and supplies of whatever description in its possession; and the Public Utilities Commission shall take possession of all such books, papers and records, furniture, equipment and supplies.

§ 82. PENDING ACTIONS AND PROCEEDINGS.] This Act shall not affect pending actions or proceedings, civil or criminal, in any court, brought by or against the people of the State of Illinois or the Board of Railroad and Warehouse Commissioners or by any other person, firm or corporation under the provisions of the Acts establishing or conferring power on the Board of Railroad and Warehouse Commissioners, nor abate any causes of action arising thereunder, but the same may be instituted, prosecuted and defended with the same effect as though this Act had not been passed. Any investigation, hearing or proceeding, instituted or conducted by the Board of Railroad and Warehouse Commissioners prior to the taking effect of this Act may be conducted and continued to a final determination by the Public Utilities Commission with the same effect as if this Act had not been passed.

All findings, orders, decisions, rules and regulations issued or promulgated by the Board of Railroad and Warehouse Commissioners under the Acts established or conferring power on said board, shall continue in force and have the same effect as though this Act had not been passed; and the State Public Utilities Commission hereby created is empowered to enforce said findings, orders, decisions, rules and regulations in the same manner and under the same conditions as though said findings, orders, decisions, rules and regulations had been made, issued or promulgated by the State Public Utilities Commission.

§ 83. CONSTITUTIONALITY.] If any section, subdivision, sentence or clause of this Act is for any reason held invalid or to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Act.

§ 84. ACT NOT APPLICABLE TO INTERSTATE COMMERCE.] Neither this Act nor any provision thereof shall apply or be construed to apply

to commerce with foreign nations or commerce among the several states of this Union, except when specifically so stated, and in so far as the same may be permitted under the provisions of the Constitution of the United States and Acts of Congress, and the decisions of the Supreme Court of the United States.

§ 85. TECHNICAL OMISSIONS NOT TO INVALIDATE ACTS OF COMMISSION.] A substantial compliance with the requirements of this Act shall be sufficient to give effect to all the acts, orders, decisions, rules and regulations of the commission, and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto.

§ 86. WHEN ACT TAKES EFFECT.] This Act shall take effect and be in force on and after the first day of January, 1914.

APPROVED June 30, 1913.

1554 Filed 11/18/1915 as of 9/15/1915. A. H.

Before the Interstate Commerce Commission.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS, Complainant,

v.

ATCHISON, TOPEKA & SANTA FE RAILWAY CO. et al, Defendant.

Petition of Intervention.

Now comes your petitioner, the Keokuk Industrial Association, and respectfully represents that it has an interest in the above entitled action, and prays that it may be allowed to intervene and become a party in said procedure, and for cause of action respectfully represents:

That the citizens of Keokuk and the members of the undersigned Association are in constant competition with the citizens of St. Louis and the members of the aforesaid Business Men's League of St. Louis.

That the cities of Keokuk and St. Louis are located on the west bank of the Mississippi River and are quite similarly situated as to the cost of transportation, marketing of products, purchase of raw materials, and the character of service rendered by the transportation companies on traffic and travel to the east and west.

That for many years the city of Keokuk has sought to be placed on a parity with St. Louis wherever circumstances and conditions were substantially the same.

That any change in the rates, rules and practises applicable to St. Louis that might be made by the Interstate Commerce Commission in this proceeding should also be made as to Keokuk and the citizens thereof, or else unjust and unreasonable discrimination would result therefrom.

Wherefore, your petitioner respectfully asks leave to intervene in the above entitled proceeding and that it be granted all the
1555 rights and privileges secured to intervenors in accordance with the rules of procedure before the Commission; and that this petition shall be considered and that such orders shall issue as in the premises are just and equitable.

THE KEOKUK INDUSTRIAL ASSOCIATION,
By JAS. M. FULTON,
Executive Secretary.

St. Louis, Mo., November 17th, 1915.

Address of Intervenor, Keokuk, Iowa.

22—955

1556 Before the Interstate Commerce Commission.

Docket #8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS, a Corporation, Complainant,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al.

Intervening Petition Filed on Behalf of the East Side Manufacturers Association.

And now comes the East Side Manufacturers Association, a voluntary organization and presents this, its petition for leave to intervene herein and in support thereof, says:

1. That it is a voluntary organization of manufacturers and shippers in and from the cities of East St. Louis, Madison and Granite City in the State of Illinois, and shippers of freight in large quantities therefrom to various points of destination in the State of Illinois on the lines of the various respondent carriers.

2. That the advances in freight rates in the State of Illinois as proposed by complainants in their original petition herein, would affect the petitioners herein actually and competitively, not only in competition with the shippers from St. Louis, Missouri, but the shippers from other parts of the State of Illinois as well as from other States into the State of Illinois.

3. That the rates in effect from St. Louis, Missouri, to points in Illinois prior to the advance complained of by complainants in the original petition were the result of an agreement entered into between a municipal commission representing the City of St. Louis, Mo., and the various carriers and were not the result of any action by nor in response to any such action of any of this Commission; that as the result of such agreement, the relative rate structure theretofore existing in reference to such rates as between St. Louis, Mo., and the cities on the East side of the river, were changed in favor of St. Louis, Missouri, and relatively discriminated as against the East Side cities; and that the said rates thus put into effect in conformity with the said agreement in many cases completely ignored the additional cost of transportation from the West side or the St. Louis side, due to the additional haul and the expense thereof over the St. Louis Terminal and the various transportation facilities across the Mississippi River to the point of delivery of the Illinois carriers as compared with the expense incident to the transportation to the same Illinois carrier from the East Side industries.

4. That many of the rates thus in effect were based upon the theory that St. Louis was commercially one with the East
1557 Side communities and, therefore, entitled to the same rates, and that such agreement was reached and rates put into effect

prior to the decision of this Commission in what was known as the Illinois Rate Cases in which decision the Commission denied St. Louis, Missouri, an equality of rates with the East Side, based upon the same theory.

5. That if the advances proposed by the complainant should be made by this Commission, they would apply only on the Illinois portion of the transportation, the advances as made by the carriers from St. Louis not having advanced the charges for Bridge and Terminal transportation; that if such advances were made the relative advantage of St. Louis would again be increased as against the East Side to the extent that no advances were made on the differential between the cities on the West and East side and no additional charges made for the transportation from St. Louis to the delivering points to the Illinois carriers on the East side.

6. That the question as to whether the rates in Illinois are to be advanced is now pending before the Public Utilities Commission of the State of Illinois, and that a proper adjudication of the question must be considered in connection with competitive transportation and transportation charges from points other than from St. Louis, Mo., and that to make a rate based simply upon competitive transportation from St. Louis, Missouri, without reference to transportation and competition from other points both intrastate and interstate would be to change the relative adjustment of rates now in effect as between the East Side cities and other points and would seriously affect these petitioners competitively.

7. That the prayer of the petitioners that the carriers be required by this Commission to make a readjustment of the Illinois intrastate rates is in violation of the provisions of the act to regulate commerce, this Commission not being vested with any such power to direct the carriers to make readjustment of said Illinois intrastate rate and that no relief is prayed for by complainant, which it is within the power of this Commission to grant.

8. This petitioner would further deny that the rates now in effect as between the complainants and these petitioners are unlawful rates or that they give these petitioners an undue advantage in competitive territory in the State of Illinois, or that the rate relationship created thereby is in any way unduly discriminatory and prejudicial or in violation of the act to regulate commerce or any of the sections thereof.

Wherefore, this petitioner would respectfully pray that it be permitted to intervene herein; to be represented by counsel at the hearing; to cross-examine; to offer testimony and to participate in
1558 any hearings and arguments that may be had before or under the direction of this Commission, as if this petitioner were a defendant or respondent herein; and that upon a final hearing this Commission may find that the rates as now in effect are not in violation of the act to regulate commerce or any of the sections thereof, and that this Commission has no jurisdiction or power to direct the carriers respondents to make a readjustment of the Illinois intra-

state rates as prayed for by complainant; and that the complaint may be dismissed.

Respectfully submitted,

EAST SIDE MANUFACTURERS ASSOCIATION,
Per P. M. HANSON, *Granite City, Ills.*

R. W. ROPIEQUET, *Att'y.*

Room 21 First National Bank Bldg., Belleville, Illinois.

1559 Offered 11/19/15. No Objection at Hearing. File. A. H. 12/8/15.

Before the Interstate Commerce Commission.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS, a Corporation, Complainant,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al., Defendants.

Intervening Petition of the State of Illinois and the People of the State of Illinois.

Now comes the State of Illinois and the people of the State of Illinois by Patrick J. Lucey, Attorney General of the State of Illinois, and upon leave granted files this intervening petition and says:

That the power to prescribe and regulate the rates of fare for the transportation of passengers by common carriers doing business in the State of Illinois, between points in said State is a sovereign power of the people of the State of Illinois, which by the Constitution and Laws of said State, is vested in the legislative department of the State Government.

That in the exercise of this power the legislature of the State of Illinois adopted an act, approved May 27th, 1907, in force July 1st, 1907, entitled "An act to establish and regulate the maximum rate of charges for the transportation of passengers by corporations or companies operating or controlling railroads in whole or in part in this State, and to provide penalties for the violation of the provisions thereof, and repealing all acts and parts of acts in conflict herewith." The first section of said act is in words and figures as follows: "Be it enacted by the people of the State of Illinois, represented in the General Assembly: That it shall hereafter be unlawful for any corporation or company engaged in the carriage of passengers upon any railroad or railroads between points in this State, to charge in excess of two cents (2c.) per mile for the carriage of adult passengers

where any passenger has purchased a ticket entitling him to
1560 carriage or in excess of one cent (1c.) per mile for carriage of a passenger under twelve (12) years of age, where such passenger has purchased a ticket entitling him to carriage. Provided that the charge in no case shall be less than five cents (5) and in determining the charge, fractions of less than one half (½) mile shall be disregarded and all other fractions counted as one mile. If any passenger shall have failed to purchase a ticket entitling him to carriage, a rate of three cents per mile may be charged and collected."

The second section of said Act prescribes penalties for the violation thereof and makes it the duty of the Attorney General of the State to prosecute for such violations and for the recovery of said penalty.

That the regulations contained in said Act of 1907 prescribing the maximum fares to be charged for the carriage of passengers upon any railroad or railroads between points in the State of Illinois, are reasonable and are not unjustly discriminatory in comparison with reasonable fares for the carriage of passengers between the City of St. Louis, Missouri, and points in the State of Illinois.

That the rates of fare which may be charged and collected under said Act for the transportation of passengers by railroads doing business in the State of Illinois from the City of East St. Louis to any other points in the State of Illinois are just and reasonable and do not unjustly discriminate against the City of St. Louis as a location or community, nor against the members of the Complainant, the Business Men's League of St. Louis, nor impose an unjust burden upon commerce between the City of St. Louis and points in the State of Illinois.

That any comparison of rates for the carriage of passengers between St. Louis and points in Illinois with the rates for such carriage for like distances from point to point in Illinois, which does not take into consideration the greater cost of transportation occasioned by the use of expensive terminals in St. Louis and the necessity for bridging the Mississippi River is an unfair comparison, and no charge
1561 of unjust discrimination against the City of St. Louis, or the members of the Complainant may be reasonably predicated upon such a comparison.

Petitioners respectfully submit that the honorable Interstate Commerce Commission is without lawful power, authority or jurisdiction to fix rates to be charged for the carriage of passengers from point to point or between points wholly within the State of Illinois; that such power is vested in the legislative department of the government of Illinois and that department has directly exercised such power by the adoption of the said Act of 1907, and that the honorable Interstate Commerce Commission is without lawful power or jurisdiction to enter an order commanding the defendant Railroad Companies to cease and desist from observing and obeying the said Act of Illinois, directly or indirectly, in the transportation of passengers between points wholly within the State of Illinois, or to establish or put in force and apply as maxima rates of fare for the transportation of

passengers between points wholly in the State of Illinois in excess of those prescribed by the said Act of 1907.

And petitioners allege and submit that any order of the honorable Interstate Commerce Commission directing the defendant railroads, or which in effect purports to authorize said railroads to increase their passenger rates for the transportation of passengers between points wholly in the State of Illinois over and above the rates fixed as a maximum by the said Act of 1907, would be beyond the powers and jurisdiction conferred by law upon the Interstate Commerce Commission and would be an unwarranted and unlawful interference with the sovereign right and power of the State of Illinois and the people of the State of Illinois to fix and regulate such charges.

Petitioners, the State of Illinois and the People of the State of Illinois, therefore, respectfully ask permission to intervene in this proceeding and to appear by the Attorney General of the State of Illinois, or his assistant or representative, at the hearing hereof, to produce evidence, to examine and cross-examine witnesses and to take part in the arguments before the Interstate Commerce Com-
1562 & 1563 mission: that the Commission may hold that it is without lawful power of jurisdiction to enter an order commanding or enabling the defendant railroads to enforce and apply as maxima in future rates for the transportation of passengers by defendant railroads between points wholly within the State of Illinois in excess of those fixed and prescribed as the maximum prescribed by said Act of 1907; that said Commission may recognize the right and power of the State of Illinois and the people of the State of Illinois to fix and regulate the rates to be charged by railroads doing business in the State of Illinois for the carriage of passengers between points wholly in said State of Illinois, and that your honorable body may enter no order in denial of the right and power of the State of Illinois and the people of the State of Illinois in the premises; and that the complaint herein may be dismissed.

THE STATE OF ILLINOIS AND
THE PEOPLE OF THE STATE OF ILLINOIS,
By PATRICK J. LUCEY,
Attorney General of the State of Illinois.

F. E. DEMPCY,
Asst. Attorney General of the State of Illinois.

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1564 *Stenographer's Minutes.*

Before the Interstate Commerce Commission.

I.

Docket No. 8083.

Vol. I.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS, Complainant,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al., Defendant.

At St. Louis, Missouri.
Date: September 15, 1915, September 16, 1915.

* * * * * * *

1565 Mr. Humburg: I have a suggestion, Mr. Examiner, and it is this: I believe the rules of practice require that interventions shall be filed with the Commission, but regardless of what the rules may require it seems to us to be fair that if upon the day of trial interveners come in that these interveners shall at least state in a paragraph, if they can, as Mr. Barlow has done, their position, and on whose behalf they intervene, why they intervene, and what is the substance of their contention. I do not know whether Keokuk wants the situation sustained or disrupted, or what the posi-
1566 tion of Keokuk is. I would be glad if Commissioner Thorne would state the position of Keokuk's intervention so we may know in the trial of the case what is the attitude of the party, the attitude of Keokuk, because it seems to me one of the fundamental things in the trial of a lawsuit is that we shall know the things that the parties contend for in their pleadings.

Mr. Thorne: Do you desire me to state?

Mr. Humburg: Yes, if you will.

Examiner Gutheim: That is a reasonable request, Mr. Thorne. I think it would be well if you stated your position at this time.

Mr. Thorne: Very glad to.

Keokuk is desirous, first, of being kept on a parity with St. Louis. She is desirous, if a reduction is made to St. Louis that a similar reduction be made to Keokuk; she is desirous of removing the discrimination alleged by reason of advances on interstate traffic without advances on intrastate traffic in the state of Illinois, providing that discrimination can be removed by placing Keokuk on the Illinois basis. We do not approve of the removal of the discrimination by the raising of the Illinois state rates, but would prefer the present

situation to remain. We believe that this is merely a cir-
1567 cuitous, round-about route of defeating the plain rulings of the Courts by which these people are making a cat's paw of St. Louis to help advance state rates.

* * * * * * *

Mr. Humburg: I would ask that each intervener state its position so in the course of the trial and examination of witnesses we will know the contention of each.

Examiner Gutheim: The Examiner so requests. I believe you stated Mr. Barlow's position was satisfactorily stated.

Mr. Humburg: Mr. Barlow has stated his position.

Mr. Slater: The State Public Utilities Commission will file its petition after the recess, if agreeable to the Examiner.

Examiner Gutheim: And if not filed immediately after the recess I will ask an oral statement on behalf of the Public Utilities Commission.

Mr. Slater: That will be done.

Mr. Ropiequet: I am not entered. I represent the East Side Manufacturers' Association. We are objecting to the last clause set out by Mr. Barlow, and our position also is in so far as the rates are in effect now and any differentials, that they are simply based upon an agreement made between St. Louis and the carriers, and that there is no adjudication by any Commission.

1568 K. F. NIEMOELLER was called as a witness and, having been duly sworn, testified as follows:

Direct Examination:

Mr. Bryan: Please state your name and business, Mr. Niemoeller.

Mr. Niemoeller: K. F. Niemoeller, business manager of the Associated Retailer.

Mr. Bryan: St. Louis?

Mr. Niemoeller: St. Louis.

Mr. Bryan: What do you mean by the Associated Retailer?

Mr. Niemoeller: It is an organization formed to encourage out of town jobbers to trade at retail in St. Louis, and to get them to come to St. Louis we pay their railroad fare on the basis of a mile both ways for every dollar they buy up to the amount of their fare. After the fare is paid whatever excess purchases are made they get a discount of one per cent.

Mr. Bryan: And that is extended to people outside of St. Louis in all states?

Mr. Niemoeller: Outside of St. Louis and outside of a 20-mile radius.

Mr. Bryan: In all states?

Mr. Niemoeller: Yes, sir; anywhere.

1569 Mr. Bryan: To what extent does the Associated Retailer pay the passenger fares of persons from the state of Illinois to induce them to come to St. Louis to do business?

Mr. Neimoeller: Do you mean in dollars and cents?

Mr. Bryan: Dollars and cents?

Mr. Neimoeller: Well, we pay out a total of about $30,000 a year and about a half or a little over goes to people in Illinois.

Mr. Bryan: People in Illinois?

Mr. Neimoeller. Yes; about a half, or perhaps a little over.

Mr. Bryan: How does this difference in rate between the state and the interstate rate affect you?

Mr. Neimoeller: Well, perhaps I would give an example of that. Take Litchfield, Illinois, 52 miles away, 49 miles from East St. Louis. Under the old rate we would pay a customer 2 cents a mile both ways from East St. Louis, 98 cents, and 50 cents bridge, $1.48. Under the new rate the customer would receive 2½ cents, or, taking 49 miles to East St. Louis would be $2.45, and 50 cents, $2.95.

To take another, I had a case come up just today where a customer living in Butler, Illinois, just beyond Litchfield, if they buy a
1570 ticket through to St. Louis it is $1.58, 2½ cents to East St. Louis plus the bridge. They can take a McKinley car, go to Granite City for a nickel, and it is 49 miles from Granite City, pay 98 cents, $1.03 from St. Louis by going to the trouble of riding the street car to Granite City and save 55 cents each way. Of course, we pay at the rate the customer pays. If the customer pays at the $1.58 rate, we pay at the $1.58 rate; if they pay the $1.03 rate we pay at that rate.

Mr. Bryan: Have you any other figures there illustrating the situation?

Mr. Niemoeller: Yes; checking a month's business of last year the expense never ran over $.55 per cent, and it is almost always 3.5 per cent on the same.

Mr. Bryan: You mean the expense of bringing the customer to St. Louis was 3.50 to 3.55 per cent?

Mr. Niemoeller: Yes, sir; never over 3.55. This year it has been running 3.56 and 3.57 and in August it was 3.68. So on $100,000—I will say on $50,000 worth of business—we do more than that—say $50,000 worth of business it would cost us under the old plan $1,750, under the new plan it would cost us $1,840, a difference of $90 on the month's business.

1571 Mr. Bryan: You said under the new plan. You mean under this increase?

Mr. Niemoeller: Yes; under the increase. It has been 3.68 in August.

Mr. Bryan: Have you had any occasion to observe whether the passengers coming to St. Louis have ceased to any extent to buy tickets to and from St. Louis and buy them to East Side points, and then buy them across the river?

Mr. Niemoeller: Yes, sir; a great many people buy tickets to East St. Louis and pay 10 cents on the street car or 25 cents on the train, or if they come in on the Big Four or Wabash and get off at Granite City on the local train and pay five cents from Granite City—a great many do that.

Mr. Bryan: Has that situation been noticeable since the first of December, 1914 ?

Mr. Niemoeller: Yes, sir; especially so.

Mr. Bryan: I think that is all.

Cross-Examination:

Mr. Humburg: Did I understand you correctly that there is a limit as to the distance for which you pay fares to those people?

Mr. Niemœller: There is a limit of a radius of 20 miles.

1572 We do not pay on a radius of 20 miles from St. Louis.

Mr. Humburg: But if the customer comes from without that 20-mile zone then you refund his whole fare, whatever he pays?

Mr. Niemoeller: No; we refund one mile of railroad fare both ways for every dollar's worth of goods he buys. If he comes from some place in Texas and buys a thousand dollars worth we will pay his whole fare a thousand miles. We pay whatever it is.

Mr. Humburg: Your association is of retailers?

Mr. Niemoeller: Yes, sir.

Mr. Humburg: Have you traveled in recent months to Illinois yourself?

Mr. Niemoeller: Yes, sir.

Mr. Humburg: And what distance and to what points?

Mr. Niemoeller: I made a trip to Butler, the place I mentioned awhile ago, four or five weeks ago; I went to Granite City for a nickle.

Mr. Humburg: Did you observe that the facilities furnished by the carriers, the accommodations with respect to the passenger transportation were materially different from St. Louis to Butler as compared with the journey from East St. Louis to Butler, or did

1573 you go in the same train all the way through?

Mr. Niemoeller: The same train from Granite City.

Mr. Humburg: It was the same train that served the interstate passenger that also served the intrastate passenger?

Mr. Niemoeller: Yes, sir.

Mr. Humburg: And that is true both ways?

Mr. Niemoeller: Yes, sir.

Mr. Humburg: Do you know whether there is any such organization as you have here elsewhere in the country?

Mr. Niemoeller: Yes, sir.

Mr. Humburg: Where?

Mr. Niemoeller: There is one in Louisville, Kentucky, one in Memphis and one in New Orleans, I think; I am not sure of that; but I know there is one in Louisville, Kentucky, and one in Memphis.

Mr. Humburg: You do not know of any in the state of Illinois?

Mr. Niemoeller: No, sir; I do not.

Mr. Humburg: And the percent that you pay to the customer is based upon whatever he pays?

Mr. Niemoeller: Yes, sir.

Mr. Humburg: If he pays the full interstate fare you pay back on that basis?

1574 Mr. Niemoeller: Yes, sir.

Mr. Humburg: If he pays on the combination you pay back on that basis?

Mr. Niemoeller: Yes, sir.

Mr. Humburg: Was there any such organization as yours or such a one as that, perhaps under a different name, in Chicago?

Mr. Niemoeller: I never heard of it.

Mr. Humburg: How long has your organization been in existence?

Mr. Niemoeller: About 7 years.

Mr. Humburg: Do you find that this practice or this conflict, so to speak, of state versus interstate fares is a matter of inconvenience to the public of St. Louis?

Mr. Niemoeller: Why, yes. When they want to go to Illinois they are put to the trouble of going to Granite City for a nickle, and if they have baggage they have got to pay the interstate fare to get the baggage on the train. If they have not baggage they go to Granite City or East St. Louis and pay the two-cent fare from Granite City or East St. Louis wherever they go.

Mr. Humburg: Prior to 1907 you had passenger fares that were no higher than the interstate fares that you now have to and
1575 from St. Louis, is that true?

Mr. Niemoeller: Yes, sir.

Mr. Humburg: But after 1907, when they got lower rates in Illinois, then you got lower rates from here in St. Louis?

Mr. Niemoeller: Right.

Mr. Humburg: That continued until the interstate fares were advanced?

Mr. Niemoeller: Yes, sir.

Mr. Humburg: And went into effect and the state fares were not advanced?

Mr. Niemoeller: That is right.

Mr. Humburg: And the disparity between the two conditions arises from the advancing of the one and the not going up of the other, is that true?

Mr. Niemoeller: That is right.

Mr. Humburg: That is all.

Examiner Gutheim: Before you go on, Mr. Neimoeller, I wish you would straighten me out on this. When a passenger pays a fare into St. Louis which is based on two cents a mile, when you say you give him a mile of travel, you give him two cents?

Mr. Niemoeller: No, sir.

1576 Examiner Gutheim: What do you give him?

Mr. Niemoeller: If he pays two cents we give him a mile both ways, four cents.

Examiner Gutheim: If he pays two and a half cents you give him five cents?

Mr. Niemoeller: Five cents, yes.

Mr. C. C. Wright: Do not some of the stores in Chicago adopt a similar plan to that under a stamp system?

Mr. Niemoeller: I do not know of any; I know they do in Kansas City. One store there repays fare independently, but there is no association.

Mr. C. C. Wright: I was shown contracts in Chicago within the last six months.

Mr. Niemoeller: Was it a travel coupon?

Mr. C. C. Wright: Yes; to be refunded according to the amount of goods purchased.

Mr. Niemoeller: There is such a thing as a travel coupon, and I believe those coupons are redeemed in the railroad office. I am not sure of that.

Mr. C. C. Wright: It was a method of effecting the same thing?

Mr. Niemoeller: Yes. I do not think, though, any of the large stores in Chicago do that. I think those are mostly outlying
1577 stores. I saw an advertisement in the Chicago Tribune that spoke of that.

Mr. C. C. Wright: Do you know whether in the city of St. Louis the purchasers from the wholesale houses come into buy and look at stock?

Mr. Niemoeller: I beg pardon.

Mr. C. C. Wright: I asked you whether you know whether the merchants in the towns in Illinois came into St. Louis to look at the stocks of the wholesalers?

Mr. Niemoeller: Ours is a retail organization.

Mr. C. C. Wright: You do not know anything about that?

Mr. Niemoeller: No.

Mr. Barlow: Your members, I understand, are the retail merchants?

Mr. Niemoeller: Yes, sir.

Mr. Barlow: Could you say what proportion of the people that you bring in here comes from a radius exceeding 50 miles?

Mr. Niemoeller: No, sir; I have never kept close track of that.

Mr. Barlow: Have you any idea within what radius of St. Louis most of your people come?

Mr. Niemoeller: Well, most of them are within 100 miles.
1578 Mr. Barlow: Within 100 miles?

Mr. Niemoeller: Yes; 100 miles in Illinois.

Mr. Barlow: The idea of your organization is, as I understand it, to encourage the people living in the smaller country towns to come in here and patronize the St. Louis retail merchants, is that it?

Mr. Niemoeller: Yes, sir.

Mr. Barlow: If he did not do that he would buy his goods at home, I suppose, would he not, to a larger extent?

Mr. Niemoeller: He might, or he might go to Chicago.

Mr. Barlow: Would he go to Chicago within a radius of 70 or 75 miles of St. Louis and pay an additional fare?

Mr. Niemoeller: They do it.

Mr. Barlow: Then, do we understand this arrangement of yours is to keep people from going to Chicago?

Mr. Niemoeller: Well, we feel that we do keep some people from Decatur and Springfield from going to Chicago; they come here.

Mr. Barlow: Is your organization founded on the idea you must do this to keep people from going to Chicago?

Mr. Niemoeller: No; we want them to come to St. Louis.

Mr. Barlow: Do your wholesalers object to bringing the
1579 customer of their retail trade in here to buy at retail?

Mr. Niemoeller: They have never said anything about it.

Mr. Barlow: They are willing that should be done, I assume. Thank you.

Mr. C. C. Wright: I was not here when Mr. Thorne intervened, and I would like to ask for the record whether Keokuk intervenes on account of passenger fares?

Mr. Thorne: Yes.

Mr. C. C. Wright: Have the passenger fares to Keokuk been advanced?

Mr. Thorne: Yes.

Mr. C. C. Wright: From where?

Mr. Thorne: From points on the Wabash.

Mr. Niemoeller, by this arrangement you do not pay the purchaser any more than his actual transportation amounted to?

Mr. Niemoeller: Well, take, for instance, a customer that lives 75 miles away and buys $100 worth. We pay his railroad fare and the $75 worth of purchases and on the other $25 he gets a discount of only one per cent, so he gets his railroad fare and 25 cents. If he lives 75 miles away and buys $100 worth of goods.

1580 Mr. Thorne: If he goes to East St. Louis, as you describe, and then walks across the bridge or goes on the street car, do you pay the mileage rate or what he actually expended?

Mr. Niemoeller: What he actually expended.

Mr. Thorne: Then, if there is an advance in the state rates in Illinois you will have to pay such purchaser more than you do under the present arrangement?

Mr. Niemoeller: Yes.

Mr. Thorne: And in your mind that would increase or decrease the burden on interstate traffic?

Mr. Niemoeller: The burden on interstate traffic?

Mr. Thorne: Yes.

Mr. Niemoeller: Raising the rate in Illinois?

Mr. West: We submit that is argumentative.

Mr. Niemoeller: I do not know that I see what that has to do with it.

Mr. Thorne: As a matter of fact this passenger fare adjustment, then, does not constitute any burden on your interstate traffic?

Mr. Niemoeller: It means this, that before this rate was increased we were paying on a basis of about three and a half per cent
1581 and since it has gone up we are paying on a basis of about 3.6 and 3.7 per cent.

Mr. Thorne: If this change is so made that it puts the interstate rates back on the two-cent basis that is what you desire?

Mr. Niemoeller: Yes.

Mr. Thorne: If it is made by increasing the Illinois freight rates that is not what you desire, is it?

Mr. Niemoeller: Well, when the rate was three cents in Missouri we always paid it.

Mr. Thorne: This will make you pay so much more money, will it not?

Mr. Niemoeller: Yes; it will make us pay more.

Mr. Thorne: That is what you desire, is it, to pay out more money to these purchasers?

Mr. Niemoeller: We do not pay it unless we have to.

Mr. Thorne: You are not seeking from the Interstate Commerce Commission, then, an advance of the Illinois state fares, are you?

Mr. Niemoeller: No.

Mr. C. C. Wright: He is not a party to the complaint; he is just a witness.

* * * * * * *

1582 Cross-examination:

Mr. Humburg: Mr. Cunningham, I notice in the figures that you have given concerning the number of tickets sold at your station that they invariably, or at least in the greater number of cases end in units of 10, as has been said by the Examiner. Can you not explain why that is? Is that not an unusual condition, that it should just turn out that you sell 350 tickets or 320 tickets?

Mr. Cunningham: I think I can explain that. That is due to our method of bookkeeping. There are only two instances in those figures I read off where the last number was an odd number: in the month of March, 1914, we sold 115, in the month of May, 1914, 263. Now, as well as my memory serves me about a year ago the style of tickets was changed. We are now given a block of 10 tickets with only one stub. That ticket is kept in the ticket clerk's drawer
1583 representing $2.50. He does not report that ticket as sold until he sells the entire 10.

Mr. Humburg: That is the entire book?

Mr. Cunningham: That is the entire book, but there is only one stub on that ticket, representing the 10 tickets. In other words he does not turn in the stub of that ticket until he sells the 10 coupons, and that explains why they always figure even.

Mr. Humburg: You say you are located at which station?

Mr. Cunningham: At the relay station.

Mr. Humburg: Is that a passenger station only?

Mr. Cunningham: Yes, sir.

Mr. Humburg: And is located in the limits of the City of East St. Louis?

Mr. Cunningham: Yes, sir.

Mr. Humburg: And you are acting there as joint agent for the 14 lines that you have mentioned?

Mr. Cunningham: Yes, sir.

Mr. Humburg: Joint agent in respect to the selling of tickets?

Mr. Cunningham: The selling of tickets and the handling of baggage.

1584 Mr. Humburg: You did not go into much detail about baggage. You started to say something, but I did not follow you closely. What is the manner in which baggage is handled, first, to and from the relay station of people that live in East St. Louis or

have it delivered within East St. Louis if it comes in, or which reaches your station from hotels in East St. Louis or elsewhere in East St. Louis, about the checking of baggage, and then contrast that with another way of checking baggage about which you started to tell, but did not finish?

Mr. Cunningham: I will attempt to answer your question as best I can. We make no attempt in East St. Louis to check baggage until the trunk or the valise, or whatever the article that is checkable is, is delivered at our depot. Then, the passenger or the owner buys a ticket, goes to our baggage room and is given a baggage check covering the transportation of the trunk or valise to whatever destination may be in mind at the time, over any one of the roads operating through our station. We issue the individual baggage check of the individual road. If it is going out on the Vandalia we issue a Vandalia check. If it is going out on the Illinois Central we issue an Illinois Central check.

Mr. Humburg: So that when a person comes to you, to
1585 the ticket window, to buy a ticket, you sell him the ticket that he wants.

Mr. Cunningham: Yes, sir.

Mr. Humburg: If he says he has baggage to check you check it where he wants it checked to, but you want to see the baggage?

Mr. Cunningham: Yes, sir.

Mr. Humburg: And am I correct in my understanding you do not check baggage on baggage checks merely? If a man presents a check do you take his baggage without seeing the baggage?

Mr. Cunningham: We do on interchange between roads. For instance, the trunk came in on the Chicago & Alton and is going out on the Big Four, we honor the check of the line delivering it.

Mr. Humburg: And do you do it on the same line?

Mr. Cunningham: Yes, sir; in some cases we do. That is very rare, though.

Mr. Humburg: The difference in the sales of tickets, the increase that is indicated by the data that you submit, is that due to a natural growth of the population of East St. Louis during the last nine months?

Mr. Cunningham: No, sir; that is not my opinion. I am certain it is due to the fact people come over and take advantage of the lower rate in the state of Illinois.

1586 Mr. Humburg: There has been, generally speaking, in the country as a whole, or at least in that section of travel from East St. Louis a decrease rather than an increase, but for this condition?

Mr. Cunningham: Yes, sir. Our coupon sales have not held up in proportion to the sales in Illinois. By coupons I mean not exactly interstate, but a ticket sold, for instance, over the Baltimore & Ohio to Cincinnati and then some foreign line from Cincinnati. We call that coupon.

Mr. Humburg: It is interline tickets?

Mr. Cunningham: Yes, sir; practically the same thing.

Mr. Humburg: Is it fair to assume, then, that the apparently great difference in the sales of local tickets——

Mr. Ropiequet: We object to what is fair.

Examiner Gutheim: Leave out the assumptions, Mr. Humburg.

Mr. Humburg: Very well. Is it your judgment that the difference in the sale of these tickets is due entirely to the difference in fares, intrastate on the one hand and interstate on the other?

Mr. Ropiequet: I object to that again as not being proper cross examination.

Examiner Gutheim: I think this witness is probably the
1587 best man qualified to give his judgment on that particular point.

Mr. Cunningham: May I answer, your Honor?

Examiner Gutheim: Yes, sir.

Mr. Cunningham: I am positive of that.

Mr. Humburg: And your judgment would be the same with respect to the difference in these bridge tickets that are in greater number now for the later months' period than for the other months' periods?

Mr. Cunningham: Yes, sir; that is caused, if you will permit me, by a man buying a ticket, for instance, from Effingham, Illinois, to East St. Louis, getting advantage of the Illinois rate, then, while the crew is changing locomotives, as a number of roads do at our station, he will get off the train, come in and buy a bridge ticket, and come over the River.

Mr. Humburg: And you said something about a 50 per cent and 50 per cent division. That means the travel, or what was that.

Mr. Cunningham: That was my observation, that of the people who come over who certainly are St. Louis passengers going to destinations in Illinois, 50 per cent of them will come over on the train, get off at our station and re-buy; the other 50 per cent will come over on the street car and re-buy.

1588 Mr. Humburg: In getting off the train, is that a local train that runs only between St. Louis and East St. Louis, or is it on one of the through trains?

Mr. Cunningham: It is on one of the through trains, but in most cases they stop long enough at our station; they have to stop; they change locomotives, and that gives them ample time to re-buy.

Mr. Humburg: So while the crew of the train are changing their locomotives the passenger hurriedly gets off the train and comes to you and buys a ticket?

Mr. Cunningham: Yes, sir.

Examiner Gutheim: Mr. Cunningham, is this estimate of 50 per cent you make an estimate only of the business from St. Louis?

Mr. Cunningham: Please, sir, let me understand. My idea was, your Honor, that of all the people that come to East St. Louis and get the advantage of the two-cent rate, 50 per cent of them come over on the steam cars on the train, often the same train, that they go to their destinations on, and the other 50 per cent comes from St. Louis on the street car and come down to our depot.

Examiner Gutheim: What I am getting at is whether there
1589 is just as much split ticket business coming from the east into St. Louis as there is going from St. Louis to the east, in your judgment?

Mr. Cunningham: Yes, sir.

Examiner Gutheim: You think there is just as much?

Mr. Cunningham: Yes, sir; that is carried out, if your Honor please, by our increased bridge sales. It is varified, rather.

Mr. Humburg: You said something about getting off of the same train, getting off train A, will you say?

Mr. Cunningham: Yes, sir.

Mr. Humburg: Buying a ticket and getting back on train A. What percentage of the people coming from St. Louis passing through East St. Louis in that manner in your judgment get off train A, buy a ticket and get back on train A as compared to those that may come in on train B, C, D, or E and get on train F?

Mr. Cunningham: I would say 75 per cent get off and on the same train.

Mr. Humburg: Do the carriers check any of this baggage, if you know, from St. Louis to Chicago upon the presentation of a bridge ticket and a ticket from East St. Louis to Chicago?

1590 Mr. Cunningham: No, sir; not to my knowledge. It is in violation of our instructions.

Mr. Humburg: Have you any means of observing in other ways the manner in which this interstate fare from St. Louis to points in Illinois is defeated, that is to say, what means have you to know that these people that come over there are in fact travelers from St. Louis?

Mr. Cunningham: Well, they freely acknowledge it, those that I am personally acquainted with. They make no pretense of trying to hide it. And then you can observe the impatience they show at the ticket window, especially a person that is not familiar with the arrangement, trying it for the first time. He comes to the ticket window and is very nervous, fearful, I presume, that the train he got off of will pull out before he gets his ticket and gets back on it.

Mr. Humburg: And have you any inquir-es by phone from St. Louis about reaching the station?

Mr. Cunningham: We have frequent inquiries and they are getting more numerous, and particularly with reference to the fare to Chicago. A person will call up—we have had a number of cases where they will call up and ask "What is the rate from East St. Louis to Chicago"? We will say $5.62. Well, it seems in
1591 most cases they are already aware what the rate from St. Louis to Chicago is, although they sometimes ask us that. But after we tell them the rate from East St. Louis to Chicago, if it happens to be a female passenger, a female inquirer, rather, in almost every case the second question is, "How can I reach the relay depot". That is the question we get from St. Louis.

Examiner Gutheim: It is a pretty hard question to answer too, isn't it?

Mr. Humburg: Was there not somewhere, Mr. Cunningham, in this period of 9 months, that you use, an advance by some roads in

addition to other lines advances as of December 1st? For instance, you have testified as to changes December first and you have given some periods there. Now, my information is,—if I am wrong you will correct me—that there was an advance by other lines in May, 1914?

Mr. Cunningham: Now, there may have been. Really my memory does not serve me positively on that point. There may have been. I know the rates were changing so regularly that we had to employ one man almost entirely on the tariff desk to line up our tariffs.

Mr. Humburg: That is all

1592 Examiner Gutheim: Anything else from the carriers?

Mr. Williams: Yes, sir; I would like to ask a question. How long have you been there, Mr. Cunningham?

Mr. Cunningham: Four years last October.

Mr. Williams: The two-cent fare law has been in force all of that time?

Mr. Cunningham: My recollection is it has.

Mr. Williams: It has, as a matter of fact. It went in force July 1st, 1907?

Mr. Cunningham: Yes, sir; that is right.

Mr. Williams: Now, the discrepancy between the two-cent fare law in Illinois and the through rates of the railroads has been just as great as it has been lately, has it not?

Mr. Cunningham: No, sir; I think it was the first of December 1914, the present difference took place.

Mr. Williams: Had not the discrepancy been just as great before that time, or even greater?

Mr. Cunningham: No, sir. For instance, I can illustrate that better than I can explain it to you. Prior to the first of December, 1914, the rate from St. Louis to Chicago was $5.80 as against $5.62 from over the River. Today it is $7.50 against $5.62.

1593 Mr. Williams: I was not speaking of Chicago. Are you familiar with the rates on the Vandalia to points in Illinois?

Mr. Cunningham: Yes, sir; more or less.

Mr. Williams: Do you not know the rates are lower on the Vandalia than they were prior to December, 1914?

Mr. Cunningham: I do not recall particularly.

Mr. Williams: And only higher between Vandalia and East St. Louis. You do not carry that in mind?

Mr. Cunningham: I do not carry that in mind.

Mr. Williams: Then, you do not know whether that was the case with any other road?

Mr. Cunningham: No, sir; I do not. There were so many changes in rates and so many tariffs issued that I cannot recall.

Mr. Williams: It struck me there must be some other factor operating to make such an enormous increase in your sales of tickets in the last six months outside of the discrepancy between the interstate rates and the sum of the intermediate rates. Do you know of any other cause? 4,000 tickets a month is a big increase. There has not been any increase in discrepancy to account to my mind for that increase of 4,000 in tickets.

Mr. Cunningham: Well, I do not know of any other rea-
1594 son for it. I only know this, Judge, we are getting more inquiries every day from people over here.

Mr. Bryan: I want to say, Judge, there will be witnesses, of course, who will explain the rate history, as to whether these rates took effect. I suppose there will be a number of them.

Mr. Williams: Your increase of tickets on the bridge an 150 to 200 a month. Your increase on these other tickets ran 4,000 a month, so the bridge has not been used in proportion?

Mr. Cunningham: No.

Examiner Gutheim: Anything else from the carriers. Have you finished, Judge?

Mr. Williams: I am through.

Examiner Gutheim: Let the interveners proceed.

Mr. Ropiequet: Mr. Cunningham, how many passenger trains come into relay station in the morning between 8 and 9 o'clock coming into St. Louis?

Mr. Cunningham: Only four scheduled to arrive between 8 and 9 o'clock.

Examiner Gutheim: Take it between 7 and 9.

Mr. Ropiequet: 7 and 9, say?

1595 Mr. Cunningham: 12.

Mr. Ropiequet: What would you say was the average number of passengers on those trains that go to St. Louis?

Mr. Cunningham: I could not give you any satisfactory estimate of that whatever. I have not the slightest idea.

Mr. Ropiequet: 20 to a train, would you say?

Mr. Cunningham: I would not attempt to make any estimate.

Mr. Ropiequet: You would not make any estimate on that?

Mr. Cunningham: No, sir.

Mr. Ropiequet: How many trains go the other way during the same period?

Mr. Cunningham: From 7 to 9 in the morning?

Mr. Ropiequet: Yes.

Mr. Cunningham: Week days about 10. This time table will vary a little on Sunday; not much.

Mr. Ropiequet: That would be counting both ways about 22 trains?

Mr. Cunningham: Yes, sir.

Mr. Ropiequet: Do you mean to say that 50 per cent of the passengers on 22 trains going from St. Louis eastwardly and coming into St. Louis from the east get off at Relay Station between 7 and 9 and buy tickets?

1596 Mr. Bryan: The witness did not say that. He said passengers destined to Illinois points.

Mr. Cunningham: No, sir; I meant passengers destined to Illinois points.

Mr. Ropiequet: Take passengers coming from Illinois; take the Illinois Central from Chicago coming from Illinois, going to St. Louis, the morning train, would you say you sold bridge tickets to 50 per cent of the passengers coming in on that train?

Mr. Cunningham: No, sir; I did not say that. I have no idea what we would sell.

Mr. Ropiequet: Now, of all the trains that run to Chicago the fast trains start from St. Louis and go via the Merchants' Bridge and not via Relay Station, with the exception of the evening train on the Illinois Central, or the afternoon train, is that true?

Mr. Cunningham: Maybe I could best answer that question in this way, by describing our Chicago service.

Mr. Ropiequet: Any way you want to answer it.

Mr. Cunningham: There may be a difference of opinion as to fast trains. We have out of East St. Louis in the morning a Chicago & Alton train at 8:26 for Chicago. That connects with the fast train from this side of the River at Godfrey.

1597 Mr. Ropiequet: You have got to transfer to get to the fast train, do you not?

Mr. Cunningham: Yes, sir; we have at one o'clock in the afternoon a connection with the Wabash train leaving here, I think also at one o'clock. The connection is made at Granite City.

Mr. Ropiequet: That is the little runabout?

Mr. Cunningham: We call it a connection. At 9:35 we have the same service on the Wabash and at 10:30 at night we have a through train of the Illinois Central from St. Louis.

Mr. Ropiequet: There is not any chance to get a sleeper to go to Chicago from East St. Louis on any train at night excepting that Illinois Central train, is there?

Mr. Cunningham: Unless you take the Wabash and get the sleeper at Granite City.

Mr. Ropiequet: I mean at East St. Louis?

Mr. Cunningham: No, sir.

Mr. Ropiequet: And before this rate went into effect the same was true—this change in rate?

Mr. Cunningham: Yes, sir. Well, now, I beg your pardon. My memory does not serve me exactly, but I think it was about a year ago, maybe a little longer, the Wabash in addition to the

1598 coach which they operate on that connection at 9:35 ran one sleeper. I do not remember exactly when that sleeper was put on.

Mr. Ropiequet: That was when the Wabash put in its train running around the west part of St. Louis to go to Chicago?

Mr. Cunningham: Yes, sir.

Mr. Ropiequet: The East Side people, if they desire to go to Chicago on any train excepting the Illinois Central train, have been compelled to go to the Union Station and take the train, excepting that Wabash train at night.

Mr. Cunningham: You ask that as a question, please, sir?

Mr. Ropiequet: Yes, sir.

Mr. Cunningham: I really could not say they have been compelled to do that; they often do it.

Mr. Ropiequet: What other way would they have? There is no sleeper at East St. Louis?

Mr. Cunningham: Well, sleeping car passengers, yes, sir.
Mr. Ropiequet: I said to take a sleeper.
Mr. Cunningham: My recollection is that some of these trains stop at Granite City and a great many East St. Louis people go up there.
Mr. Ropiequet: How did they go to Granite City?
1599 Mr. Cunningham: On a street car?
Mr. Ropiequet: Where do they make connection at Granite City from the street car to those sleepers?
Mr. Cunningham: Those St. Louis trains come through Granite City.
Mr. Ropiequet: Mr. Cunningham, is it a fact that a good part of the increase in the Chicago traffic is due to the fact that the East Side people now take the Illinois Central instead of coming over here to take these other trains?
Mr. Cunningham: That would not be my opinion, no, sir.
Mr. Ropiequet: Is it not a fact that nearly all of your night sale of tickets to Chicago is over the Illinois Central?
Mr. Cunningham: No, sir; I would say that the Wabash got at least 40 per cent of that.
Mr. Roqiequet: Will you furnish the Commission a statement showing the tickets you have sold to Chicago during this period during which you have checked these tickets, and the trains over which the tickets were sold from East St. Louis?
Mr. Cunningham: I can secure that information if it is desired, yes, sir.
Mr. Ropiequet: You are sure that those figures which you gave with reference to this difference in the increase in tickets
1600 sold are correct? They have been checked off, have thy?
Mr. Cunningham: Yes, sir; they were taken off our record books.
Mr. Ropiequet: Taken off your record books?
Mr. Cunningham: Yes, sir; the records we submit to the auditing department of each line.
Mr. Ropiequet: Are those showing the increase in tickets to Illinois points or all points?
Mr. Cunningham: Illinois points only, these tickets?
Mr. Ropiequet: That is all.
Mr. Thorne: You do not have any record of the passengers coming into St. Louis during these same periods?
Mr. Cunningham: No, sir; I would have no means of knowing that?
Mr. Thorne: You do not know whether there was a substantial increase or not?
Mr. Cunningham: No, I would have no means of knowing that whatever?
Mr. Thorne: You are in the regular employ of the railroads
Mr. Cunningham: Yes, sir.
Mr. Thomas: And you work every day?
1601 Mr. Cunningham: Yes, sir.
Mr. Thorne: When you get to go out to attend a hearing do you have to get the consent of your officials over you?

Mr. Bryan: The witness is brought here on a subpœna.

Examiner Gutheim: That was stated when the witness was put on the stand, Mr. Thorne.

Mr. Cunningham: Do you wish me to answer that, your Honor?

Examiner Gutheim: No.

Mr. Thorne: What was your answer?

Examiner Gutheim: I said he need not answer that. He has testified he was brought here on a subpœna.

Mr. Thorne: Who asked you to come here?

Mr. Cunningham: I was subpœnaed. Here is a copy of the subpœna.

Mr. Thorne: Why by?

Mr. Cunningham: Shall I read this, your Honor?

Mr. Thorne: No; I asked you why by. You need not read the subpœna.

Mr. Bryan: By the complainant.

Mr. Cunningham: By the complainant in its proceeding entitled the Business Men's League of St. Louis against the Atchison, Topeka & Santa Fe Railway and others docket 8083.

1602 Mr. Thorne: That is the title of the subpœna. The Commission issued the subpœna, but at whose request, do you know?

Mr. Bryan: Just hand the subpœna over to the gentleman and let him observe it?

Mr. Cunningham: Yes.

Mr. Thorne: Did you have any conference with the gentleman here, Mr. Bryan, in regard to this case?

Mr. Cunningham: No, sir.

Mr. Thorne: Did you have any conference with any of these attorneys here for the city of St. Louis in regard to this case?

Mr. Cunningham: No, sir.

Mr. Thorne: Did you have conference with your own counsel with regard to it?

Mr. Cunningham: I spoke to this gentleman here, Mr. Humburg, yes.

Mr. Thorne: That is all.

Redirect examination:

Mr. Bryan: Mr. Cunningham, there are a number of tickets sold to points in Illinois on roads not going to Chicago, are there not?

Mr. Cunningham: Yes, sir.

1603 Mr. Bryan: So the examination by Mr. Ropiequet with regard to the roads going to Chicago did not cover all the roads?

Mr. Cunningham: No, sir.

Recross-examination:

Mr. Humburg: Did you speak to me before or after you were served with the subpœna to appear here?

Mr. Cunningham: Afterwards.

Mr. Humburg: And did you in response to the request that we made of you furnish all the data you had one way or the other pertaining to this affair to which you have testified?

Mr. Cunningham: Yes, sir.

Mr. Humburg: Have you been told by anybody representing the carriers to conceal any part of the facts?

Mr. Cunningham: No, sir.

Mr. Humburg: Now, will you tell something more about the sleeping car accommodations or the use of sleepers from East St. Louis or St. Louis with respect to the sleeping cars? What is the situation there? I do not know that you have covered it fully.

Mr. Cunningham: Well, I will do my best to explain that to you. We, of course, sell Pullman accommodations over there on all trains operating through the Relay depot, and in fact we
1604 also sell Pullman accommodations for trains operating from St. Louis to western destinations, but we do not make any reservations ordinarily—of course, you gentlemen are familiar more or less with reservations. A man will figure on going to St. Joseph, Missouri, and call up and reserve a berth, and then after he reserves it he cannot make the trip and calls up and cancels it. Well, we do not make any reservations on Chicago business unless we know that the passenger is a citizen of East St. Louis.

Mr. Humburg: That is, the reservation on the local ticket.

Mr. Cunningham: On the train——

Mr. Humburg: That is to say, you would not reserve from East St. Louis on the local ticket of a passenger coming from St. Louis?

Mr. Cunningham: No, sir.

Mr. Humburg: He would have to buy his sleeping car ticket outright?

Mr. Cunningham: Yes, sir.

Mr. Humburg: Prior to this conflict in state and interstate rates you did make reservations.

Mr. Cunningham: Yes, sir.

Mr. Humburg: And the only reason why you discon-
1605 tinued making these reservations is to comply with the law in applying the interstate rate?

Mr. Cunningham: Yes, sir.

Mr. Humburg: That is all.

Mr. Thorne: Mr. Cunningham, when did you receive this subpœna?

Mr. Cunningham: Today is Thursday, is it not, or Friday?

Mr. Thorne: Thursday.

Mr. Cunningham: Yesterday was the first day of this hearing?

Mr. Thorne: Yes. Yesterday was Wednesday.

Mr. Cunningham: I think I received that about either one or two o'clock Tuesday afternoon.

Mr. Thorne: Who gave it to you?

Mr. Cunningham: Some gentleman came to the depot; I don't know who it was.

Mr. Thorne: He did not tell you what he wanted you to bring here, did he?

Mr. Cunningham: No, sir.

Mr. Thorne: Did not tell you who it was for?

Mr. Cunningham: Just served that subpœna.

Mr. Thorne: You did not know anything else of what you were wanted to bring here?

1606 Mr. Cunningham: Not from him, no, sir.

Mr. Thorne: Who told you what they wanted?

Mr. Cunningham: After I received the subpœna then I conferred with Mr. Humburg and I told him the information I might be able to gather for the hearing. But I was mistaken in that. I figured I could get more than I was able to get. I told him possibly I would be able to get together considerable figures on revenue, but it was impossible to get them from our records in time.

Mr. Thorne: You had no conference with anybody else except Mr. Humburg?

Mr. Cunningham: No, sir.

Mr. Humburg: If Commissioner Thorne desires me to testify I will be very glad to do so that that subpœna was not issued by me or at my direction or suggestion.

Examiner Gutheim: Is there any other examination of this witness?

Mr. Cunningham: If your Honor please I have a few figures here on baggage. I do not know whether they would interest you.

Examiner Gutheim: No; I have no interest in that matter if counsel has not.

1607 Mr. Bryan: What figures have you on the baggage?

Mr. Cunningham: Simply a memorandum of the number of pieces of baggage we handled for the two periods.

Mr. Bryan: I would like to have them.

Mr. Cunningham: We handled from the first of March, 1914, to the 30th of November, 1914, 18,048 pieces of baggage. We handled from the first of December to August 31st, 1915, 19,513 pieces of baggage.

Mr. West: That is to local points over in Illinois?

Mr. Cunningham: Yes, sir; to Illinois points.

Mr. Humburg: Mr. Examiner, it may require the conscience of Commissioner Thorne somewhat——

Mr. Thorne: It is not conscience.

Mr. Humburg (continuing): —if I told him I had planned to get somebody from East St. Louis and Granite City and other places to testify to the very thing this gentleman has testified to, and there will be other testimony, and the reason why he was given these data and has worked them up was the fact he wanted to know what he should testify to, what would be the things he was desired to give and these data he has given here are just the things we were going to introduce.

1608 Mr. Thorne: In view of the speech made by counsel I would like to add one word.

Examiner Gutheim: If it is that sort, go ahead.

Mr. Thorne: This conclusively shows there is only one party in

this case and the railroads and these gentlemen here are one party and the interveners are the defendants.

Examiner Gutheim: I will not decide that question.

Mr. Bryan: It hurts my feelings to know we are not in it.

Mr. Thorne: I included you with the carriers.

Mr. Bryan: The files in the Interstate Commerce Commission's office will show the telegram, asking for the subpœna for this witness and they sent to me, and in fact as soon as I sent the telegram, I called up Mr. Fitzgerald and I told him that I should want the witness, told him just exactly what I wanted the witness to testify in regard to. I did the same thing with respect to the two other witnesses I will have testify now.

Mr. Thorne: And yet you never——

Mr. Bryan: I never saw Mr. Humburg in my life, never had a word with him, until I saw him here.

Examiner Gucheim: One minute. We have had a speech from everybody now and I think I will let the Commission rule on the question of motive, if it is necessary.

Mr. Ropiequet: I would like to state Mr. Cunningham is
1609 here under subpœna, and when we have the hearing again I will want to use him as a witness.

Examiner Gutheim: Very well, that will be understood.

(Witness excused.)

* * * * * * *

1610 Cross-examination:

Mr. Humburg: This last list of figures which you read, I did not quite follow you, are they the local bridge tickets sold at Granite City for St. Louis?

Mr. Appel: Yes, sir.

Mr. Humburg: Traveling westbound, as it were?

Mr. Appel: Yes, sir.

Mr. Humburg: And also eastbound, or only westbound?

Mr. Appel: I do not handle eastbound, only westbound, Granite City to St. Louis.

Mr. Humburg: And those are the number of tickets that you sold for travel on the trains?

Mr. Appel: Yes, sir.

Mr. Humburg: And what did you say about stops being made or no stops being made there?

Mr. Appel: I said that the trains do not stop long enough for a passenger to get off of the train and buy another ticket and
1611 get back on the same train.

Mr. West: Is that trains from the east?

Mr. Appel: No, sir.

Mr. Humburg: That is true of all trains coming from the east going to St. Louis?

Mr. Appel: Yes, sir.

Mr. Humburg: And is it true also in the other direction?

Mr. Appel: Yes, sir.

Mr. Humburg: So there is no opportunity for any passenger at Granite City to get off and buy a ticket and get back on the same train?

Mr. Appel: I have had instances where a party got off a train out of St. Louis, our fast train, flag stop train, and would come in and buy a ticket, or endeavor to buy a ticket, to points in Illinois.

Mr. Humburg: And this first set of figures that you read, what does that represent?

Mr. Appel: The tickets sold on the Wabash.

Mr. Humburg: Locally from Granite City to points in Illinois?

Mr. Appel: Illinois, Indiana, Ohio.

Mr. Humburg: Your experience at Granite City is the same substantially as that detailed by Mr. Cunningham concerning
1612 the checking of baggage?

Mr. Appel: Yes, sir.

Mr. Humburg: And is your practice the same concerning sleeping car reservations?

Mr. Appel: Yes, sir.

Mr. Humburg: That is all.

Mr. Ropiequet: This number of tickets which you sold, the increased number between the one year and the other year, you do not know what the passenger traffic on those train- was as compared with those years, do you?

Mr. Appel: I do not, no, sir.

Mr. Ropiequet: These trains that come through Granite City across the Merchants' Bridge do not stop long enough, you say, for anyone to buy any tickets?

Mr. Appel: No, sir.

Mr. Ropiequet: And if an Illinois passenger wants to get off in Illinois on that train and not pay the additional fare to get to the Union Station and back again into Illinois, he has got to get off at Granite City while the train is passing the crossing?

Mr. Appel: I do not know.

Mr. Ropiequet: There is no stop to let them get off in
1613 Illinois, is there?

Mr. Appel: I don't know whether they stop or not.

Mr. Ropiequet: Do they stop in Granite City to permit Illinois passengers on those trains to get off?

Mr. Appel: What train?

Mr. Ropiequet: The fast train from Chicago, I will call it.

Mr. Appel: No, sir; they do not stop.

Mr. Ropiequet: They do not stop at all at Granite City?

Mr. Appel: No, sir. We have one train that does not stop. That is the morning train that is due there at 7:20; that is the only one that I know of that does not stop at Granite City.

Mr. Ropiequet: In quite a number of those months you sold less tickets during this year of 1914 compared to 1915 to St. Louis?

Mr. Bryan: The figures will speak for themselves.

Mr. Appel: I do not know whether they were less or not, but the figures I gave were correct.

Mr. Ropiequet: The fare from Granite City to St. Louis is 35 cents, is it not?

Mr. Appel: Yes, sir.

Mr. Ropiequet: And on the McKinley line it is 10 cents.

Mr. Appel: On the McKinley line it is five cents.

1614 Mr. Ropiequet: That is all.

Examiner Gutheim: Any further examination of this witness?

Mr. Humburg: I have a few questions.

Examiner Gutheim: Any other questions from the interveners?

Mr. Humburg: Unless there are some questions from the interveners I will ask the population of Granite City?

Mr. Appel: About 15,000 to 17,000 I should judge.

Mr. Humburg: There has been no material increase in that population during the last nine months?

Mr. Appel: No, sir.

Mr. Humburg: Is it your judgment also that the increase in the sales of tickets there is due to the same condition that Mr. Cunningham has testified to?

Mr. Appel: Yes, sir.

Mr. Humburg: Do you know whether these so-called local tickets you have mentioned include interline tickets to local points in Illinois, or are they all strictly local Wabash tickets?

Mr. Appel: They are all local Wabash tickets.

Mr. Humburg: And would not include the tickets for a two-line haul in the state of Illinois?

Mr. Appel: No, sir.

Mr. Humburg: And that would be true of both the 1914

1615 figures as well as the 1915 figures?

Mr. Appel: Yes, sir.

Mr. Humburg: Would that materially change the proportion of the figures that you have submitted—I mean by that the relative portion of 1914 to 1915, or can you give us an estimate as to the percentage of local tickets and interline tickets which you sold on the Wabash road?

Mr. Appel: Well, they increase- in the local and decreased in the interline.

Mr. Humburg: What can you say as to the number of persons going to Granite City by street car?

Mr. Appel: Well, I should judge—my records would show that from December of 1913 until August of 1914, my Chicago tickets would average about from 30 to 50 per month, while during the same period from 1914 to 1915 they will run from 175 to 300 and over.

Mr. Humburg: But my question was whether you knew of your own knowledge as to an increase in the traveling public——

Mr. Appel: I do, yes, sir.

Mr. Humburg: I mean those that travel from Granite City and come over by street car from St. Louis?

Mr. Appel: I do, yes, sir.

1616 Mr. Humburg: You do know there was an increase in that class of travel?

Mr. Appel: Yes, sir.

Mr. Humburg: And is it true also with respect to those coming by way of the McKinley line in the same manner?

Mr. Appel: Yes, sir.

Mr. Humburg: What is the fare by the McKinley Line from St. Louis to Granite City?

Mr. Appel: 5 cents.

Mr. Humburg: And what is it by the street car?

Mr. Appel: The McKinley line, I believe, is 15 cents by the through train, but the local McKinley is 5 cents.

Mr. Humburg: And is there a street railway in addition to the McKinley Line to Granite City?

Mr. Appel: No, sir.

Mr. Humburg: And what is the situation concerning the travel of persons getting off the trains at Granite City and then taking the street car or the McKinley line, so-called, to St. Louis, if you know? Have you any means of observing that?

Mr. Appel: Inbound?

Mr. Humburg: Inbound?

1617 Mr. Appel: Yes, sir; I have taken special notice and found out that parties traveling from Chicago get off at Granite City and are directed to the street car for St. Louis.

Mr. Humburg: That is all.

Mr. Thorne: Do you know the fare from Springfield to St. Louis?

Mr. Appel: I think it is $2.10 on the Wabash; I am not positive.

Mr. Thorne: Do you know the fare from Chicago to St. Louis via Springfield?

Mr. Appel: I do not.

Mr. Thorne: Do you know whether there is any increase or decrease in the travel to St. Louis interstate in character?

Mr. Appel: I do not.

Mr. Thorne: During this same period you give the figures to Granite City?

Mr. Appel: Into St. Louis?

Mr. Thorne: Yes.

Mr. Appel: I do not.

Mr. Thorne: You do not know whether it is greater or less then?

Mr. Appel: I do not.

1618 Mr. Thorne: That is all.

(Witness excused.)

Examiner Gutheim: The next witness.

* * * * * * *

1619 Cross-examination:

Mr. Humburg: You heard my cross examination of the previous witness concerning Granite City?

Mr. Koenig: Yes, sir.

1620 Mr. Humburg: Would your answers be substantially the same if I prepounded to you the same questions?

Mr. Koenig: No; I don't suppose the same questions would apply to a joint agent.

Mr. Humburg: Very well, then, you represent three lines at Granite City?

Mr. Koenig: Yes, sir.

Mr. Humburg: How long have you been the joint agent for those three lines?

Mr. Koenig: About four years.

Mr. Humburg: Have you observed any absormal growth in the population of Granite City during the last nine months?

Mr. Koenig: No, sir.

Mr. Humburg: Is it your judgment that this disparity in sales of local tickets that you have called attention to is due entirely to the disparity in the passenger fares?

Mr. Koenig: I think so.

Mr. Humburg: Do you make any reservations at Granite City of sleeping car accommodations on through service?

Mr. Koenig: We handle no Pullman tickets whatever.

Mr. Humburg: So that question would not arise with you as it does with East St. Louis?

1621 Mr. Koenig: No, sir.

Mr. Humburg: Have you had any experience in the checking of baggage on split tickets, and what is the manner in which that situation is handled, if you have had such experience there?

Mr. Koenig: We have never had a case of that kind.

Mr. Humburg: Your situation is more in the nature of persona using the street car from St. Louis to Granite City and then taking the train?

Mr. Koenig: Yes, sir.

Mr. Humburg: Or of persons coming in by train to Granite City and then taking the street car from there?

Mr. Koenig: Yes, sir.

Mr. Humburg: That is all.

Mr. Thorne: What is the fare from Granite City to St. Louis?

Mr. Koenig: 35 cents by railroad.

Mr. Thorne: You have no way of telling how much additional revenue it would have amounted to by the railroads if all these people had purchased tickets clear through to St. Louis, have you?

Mr. Koenig: No; I have not.

Mr. Thorne: You do not know whether the travel to

1622 St. Louis has increased or decreased during this same period that you testified to Granite City, do you, interstate passengers?

Mr. Koenig: I have no way of telling; I did not draw up any figures on that.

Mr. Slater: Do you know where these people who transferred at Granite City came from?

Mr. Koenig: We have very little transfer business from one train to another; in fact none.

Mr. Slater: You do not know whether it was a great distance or a short distance.

Mr. Koenig: We do not know where it was.

Mr. Bryan: What do you mean by the people transferred. You say you have very little transfer business. What do you mean?

Mr. Koenig: Persons transferring from one of our trains to another of our trains.

Examiner Gutheim: That seems to be all, Mr. Koenig.

(Witness excused.)

* * * * * * *

1623 Mr. Ropiequet: Mention was made a while ago in reference to the difference in trains. There are more trains from Illinois entering St. Louis than there are East St. Louis, more passenger trains, taking these roads in consideration, are there not?

Mr. Lanigan: I have not made an examination of the number of trains, but I presume that would be about right.

Mr. Ropiequet: If that be true, that would have the effect of throwing more people from Illinois into St. Louis than into East St. Louis and be as against East St. Louis on an equal passenger rate, would it not, the same as Mr. Bryan spoke about a while ago?

Mr. Lanigan: I do not quite get the sense of your question?

Mr. Ropiequet: Well, if you have more trains from Illinois going to St. Louis than to East St. Louis, those trains avoiding East St. Louis, and due to the increased service from Illinois to St. Louis as against East St. Louis it would take more people to St. Louis than to East St. Louis, would it not?

Mr. Lanigan: Not necessarily. There are points on the other side of the river relatively located, namely, Granite City and Madison. They do not have to go to East St. Louis.

Mr. Ropiequet: Trains do not stop at Madison, do they?

Mr. Lanigan: I think some of them do.

1624 Mr. Ropiequet: I mean all of the trains?

Mr. Lanigan: No, sir.

Mr. Ropiequet: The service is not the same on all these trains you speak of on your line between St. Louis and East St. Louis?

Mr. Lanigan: Do you mean the number of trains or the character of service.

Mr. Ropiequet: I mean the number of trains and the character of the service also.

Mr. Lanigan: The character of trains serving East St. Louis and St. Louis is identical. In the number of trains perhaps there are more trains to St. Louis than to East St. Louis.

Mr. Ropiequet: Do you mean to say the character of service on all of the passenger trains that enter St. Louis from Illinois for Eastern points is the same as those that enter East St. Louis.

Mr. Lanigan: I said the trains that served both points, the character of train of the kind that go to East St. Louis is identical with the kind that go to St. Louis.

Mr. Ropiequet: Are not the trains better on the St. Louis than East St. Louis trains, on the trains that do not stop?

1625 Mr. Lanigan: I do not know of any.

Mr. Ropiequet: I do not mean the Illinois Central.

Mr. Lanigan: The other lines, so far as I am advised, also continue their trains into St. Louis.

Mr. Ropiequet: Take the Pennsylvania train limited east, is that

the same service on that train as the train that leaves St. Louis and goes by way of East St. Louis?

Mr. Lanigan: I stated in answer to the former questions that the trains that serve both points, the character of service is the same.

Mr. Ropiequet: I am talking about the trains that do not serve both points. Is there not a higher class of trains that serve St. Louis and not East St. Louis?

Mr. Lanigan: I would not say that as far as I am advised.

Mr. Ropiequet: All right, if you do not know about it I won't ask you. I will ask somebody that does. That is all.

Mr. Thorne: Mr. Lanigan, you have given considerable testimony concerning commutation rates and services. Is it your idea that the commutation revenue is adequate and reasonable?

Mr. Lanigan: You refer to what particular commutation services?

Mr. Thorne: Chicago.

1626 Mr. Lanigan: I should say that the roads would welcome a higher basis.

Mr. Thorne: Well, do you think it is reasonable as it is? Of course, you might welcome a higher basis even if it was unreasonable.

Mr. Lanigan: I do not quite understand the full meaning of the inquiry as to being reasonable. Reasonably low or reasonably high or reasonable?

Mr. Thorne: Do you think it makes and pays expenses with an adequate profit to the carrier?

Mr. Lanigan: No, sir; I do not.

Mr. Thorne: Is there any effort in this case to change that situation? Is there any state or other official authority keeping those rates down?

Mr. Lanigan: I do not understand that the commutation rates are involved in this case.

Mr. Thorne: So if the order prayed for here were granted it would not affect that situation?

Mr. Lanigan: I do not suppose it would; I am not sure.

Mr. Thorne: That is reflected in all of these average passenger earnings, is it not?

Mr. Lanigan: All that include the suburban revenue.

1627 Mr. Thorne: Do you know what portion of the Trunk Line passenger revenue is commutation represented or included in the passenger service and revenue?

Mr. Lanigan: No; I have no information on the Trunk Line commutation situation.

Mr. Thorne: How about Central territory?

Mr. Lanigan: I do not believe there are any large commuting centers in the Central outside of Chicago. There might possibly be some at Pittsburg, but I do not think they compare with the commuting centers of Boston, New York and Chicago, necessarily.

Mr. Thorne: The situation in Illinois you think is fairly reflected by the Illinois Central Railroad where you have separated the suburban traffic from the state exclusive of the suburban traffic?

Mr. Lanigan: I should say that the Illinois Central is a representa-

tive situation, although its suburban traffic is not entirely like the suburban traffic on the other roads entering Chicago.

Mr. Thorne: Is it fairly typical or average?

Mr. Lanigan: Well, the Illinois Central commutation traffic, much of it, is within the city limits of Chicago and differs in that
1628 respect from the suburban traffic on the other roads. The North Western, for instance, does not have as much commutation traffic right in the city limits while the Illinois Central does.

Mr. Thorne: The Illinois Central traffic aside from the suburban travel averages what per passenger-mile?

Mr. Lanigan: For the entire line?

Mr. Thorne: In Illinois.

Mr. Lanigan: Per passenger per mile?

Mr. Thorne: Yes.

Mr. Lanigan: I should say it averages somewhere around 2 cents; slightly under 2 cents.

Mr. Thorne: About 1.98, does it not?

Mr. Lanigan: That excludes the suburban traffic, of course?

Mr. Thorne: Yes, sir.

Mr. Lanigan: Yes.

Mr. Humburg: Now you are confusing questions here.

Mr. Thorne: Read the question and see if his answer was not correct.

Mr. Humburg: You put your question and you had suburban excluded.

Mr. Thorne: Yes, sir.

1629–69 Mr. Humburg: And Mr. Lanigan had it included. Now let us have an understanding about it.

Mr. Thorne: All right, was your last answer excluding or including suburban traffic?

Mr. Lanigan: 1.98, less than 2 cents, does not include suburban traffic.

Mr. Humburg: And the other?

Mr. Lanigan: I did not give any other.

Mr. Humburg: Very well.

Mr Thorne: Now the average per passenger-mile is greater than the average in Central territory as a whole where you said the suburban outside of Chicago did not cut much figure?

Mr. Lanigan: I think it is, yes, sir.

Mr. Thorne: So Illinois revenue on passenger traffic intrastate so far as it is involved in this whole case is up to the average of this whole territory and above the average?

Mr. Lanigan: To the Illinois Central Road?

Mr. Thorne: Yes.

Mr. Lanigan: Yes.

Mr. Thorne: And in your judgment, so far as you know, the Illinois Central traffic aside from the suburban traffic, is typi-
1670 cal and representative of the other roads on intrastate travel?

Mr. Lanigan: I would say the exhibit itself shows in the composite figures that the rate is less than that and, of course, it

includes all kinds of traffic. I have no figures on the rate per mile on the other roads excluding commutation business.

Mr. Thorne: You would not be able to express an opinion whether the average on the other roads, excluding suburban travel, was greater or less than the Illinois Central?

Mr. Lanigan: It would not mean anything because I have not made any study of it.

Mr. Thorne: You could not say?

Mr. Lanigan: No, sir; I could not.

Mr. Thorne: You have spoken of a bridge toll across the river here at St. Louis. What is that average passenger?

Mr. Lanigan: The fare over the Eads bridge is 25 cents St. Louis to East St. Louis and the fare between St. Louis and Granite City is 35 cents; between St. Louis and Madison 35 cents.

Mr. Thorne: What is your idea as to that being adequate or inadequate?

Mr. Lanigan: To what extent, Mr. Thorne, please?

Mr. Thorne: Do you think that is a reasonable charge for
1671 that service?

Mr. Lanigan: It is not unreasonably high. Is that what you mean?

Mr. Thorne: Well, does it give an adequate profit to the carrier, paying the cost of the service and a reasonable profit?

Mr. Lanigan: I should say no.

Mr. Thorne: So that is not involved in this case either, is it?

Mr. Lanigan: The charge across the bridge?

Mr. Thorne: You are not asking for that to be increased?

Mr. Lanigan: I do not understand that is involved in the complaint.

Mr. Thorne: Now as to the revenues on Illinois intrastate traffic, you have attempted to make some deductions as to whether that is reasonable or unreasonable by comparison of these earnings for the territory. You have not made any attempt to compare the values of the property in these other territories and the earnings that they were making on the value of the property, have you?

Mr. Lanigan: No; I personally have not.

Mr. Thorne: So far as your personal knowledge is concerned you do not know whether these companies are making more or
1672 less on the actual value of their property in this territory compared to Eastern territory?

Mr. Lanigan: You mean on the whole property?

Mr. Thorne: Yes; or on the property in Illinois.

Mr. Lanigan: Well, I think the evidence of the preceding witnesses covered that.

Mr. Thorne: Well, I was not asking you, you know, about their testimony. I laid the premise in my interrogatory. I said as far as your personal knowledge is concerned you do not know whether they are making more or less than the Eastern carriers?

Mr. Lanigan: No; I only draw conclusions from what comes be-

fore me and what I see and by the evidence given by the preceding witnesses.

Mr. Thorne: Further, you do not know of your own personal knowledge whether these carriers are making an adequate return upon the value of property in Illinois?

Mr. Lanigan: I understand they are not.

Mr. Humburg: He has not testified to that and, furthermore, there are exhibits on the subject.

Mr. Thorne: These mere comparisons of rates per passenger-mile and per train-mile, are they very conclusive in your mind until you know the value of the property and how many trains are
1673 run and how many passengers earn that in proportion to the investment?

Mr. Lanigan: I think they strongly enable me to draw a conclusion.

Mr. Thorne: Well, that may be argumentative.

If the volume of the traffic were greater in proportion to the investment you people might be making more money here than in the East even though the revenue per passenger-mile were less.

Mr. Humburg: That is a question for Mr. Thorne's brief.

Mr. Thorne: I agree with you.

Examiner Gutheim: Yes; I think we are getting into a lot of argument here.

Mr. Thorne: You have given some testimony in regard to the character of the service in Illinois and compared it with the character of the service on interstate travel?

Mr. Lanigan: Yes, sir.

Mr. Thorne: That is shown on Exhibit 16, is it not?

Mr. Lanigan: Yes, sir.

Mr. Thorne: What was the deduction you drew from that table?

Mr. Lanigan: The principal deduction was that these interstate trains served intrastate and interstate passengers with the
1674 same character of service and that the interstate trains are not used altogether by interstate passengers but are used to a large degree by the intrastate passengers, in fact, by greater numbers of intrastate passengers than interstate passengers.

Mr. Thorne: These are the through expensive trains. Is it your idea that they are more expensive than a local train?

Mr. Lanigan: These trains serve all kinds of passengers; they are not necessarily local trains, nor are they necessarily through trains. They are trains that happen to have origin and destination that cause them to be interstate trains. They serve all passengers alike.

Mr. Thorne: What ones of these would you call the more expensive interstate through trains?

Mr. Lanigan: Well, I would not know any of them as being particularly more expensive. They are all high class service trains.

Mr. Thorne: Then on this railroad—that is the Illinois Central?

Mr. Lanigan: Yes, sir.

Mr. Thorne: You do not recognize any difference in the expense

so far as running through trains and local trains is
1675 concerned?

Mr. Lanigan: I have not made any computation on the expense.

Mr. Thorne: Do you have any personal knowledge that one class of trains is more expensive than the other class?

Mr. Lanigan: That would depend entirely on the character of equipment that is in the trains. These trains we show here are of our best trains.

Mr. Thorne: And they are superior to the average local train?

Mr. Lanigan: You mean by a local train a short-run local train?

Mr. Thorne: Yes.

Mr. Lanigan: I should say the character of that service is higher than the short-run local train, yes.

Mr. Thorne: You have steel cars on these trains?

Mr. Lanigan: We have on local trains too, many of them.

Mr. Thorne: How do they average up? Do you use steel cars as much on the short-run local trains as you do on these trains?

Mr. Lanigan: We do, because we are gradually getting into a condition where we will have eventually all steel. We have some trains in Illinois absolutely local that do not touch outside of the state and the character of equipment is in every respect as high
1676 class as these.

Mr. Thorne: You say there are some trains of that character?

Mr. Lanigan: Yes.

Mr. Thorne: Is that the average short-run local train in Illinois?

Mr. Lanigan: Well, it is hard to deal in averages just in that way. The character of the train, the number of cars and everything, all depends upon the density of traffic and the volume of the traffic.

Mr. Thorne: In a preceding question you did recognize some difference in the expense of your trains in Illinois, of the through interstate trains and the local short-haul trains, did you not?

Mr. Lanigan: Yes.

Mr. Thorne: What is that difference? I do not ask it in amount. Describe it.

Mr. Lanigan: I cannot describe it in any other way than to say that you cannot classify them by short-run local intrastate trains or local interstate trains. We have them both ways.

Mr. Thorne: Then when you made that statement what did you refer to?

Mr. Lanigan: I say these are our better trains. We show
1677 here in this exhibit that the intrastate passenger enjoys the same character of service as the interstate passenger; that there is no difference.

Mr. Thorne: All right. Now these are the better trains. What are the other class of trains? Describe them.

Mr. Lanigan: Local trains.

Mr. Thorne: In what way are these better than those local trains?

Mr. Lanigan: They carry sleeping cars and parlor cars. That is about the only difference.

Mr. Thorne: What about the speed?

Mr. Lanigan: Better speed. They do not make as many stops.

Mr. Thorne: What about the size of the engine?

Mr. Lanigan: They are larger necessarily to handle the heavier train.

Mr. Thorne: What about the main-line ballast and roadway as compared to the branch-line ballast and roadway?

Mr. Lanigan: I think you will have to get another witness to answer the road questions. I cannot answer it.

Mr. Thorne: Well, in a number of respects these trains are superior to local trains to which you have just made reference?

1678 Mr. Lanigan: They are superior to certain local trains.

Mr. Thorne: Are these trains here the average train on your road or on the Illinois Central in Illinois, or are they above the average or are they below the average in your judgment?

Mr. Lanigan: These are the best we have got.

Mr. Thorne: That is what I thought.

Mr. Lanigan: I should say they are of the best. We have others that are equal, but they are not all shown here.

Mr. Thorne: About how many more have you equaling these in speed and in character of equipment and service generally?

Mr. Lanigan: Not more than an equal number.

Mr. Thorne: About half a dozen more, perhaps?

Mr. Lanigan: Not more than that, yes.

Mr. Thorne: You run a great many trains in Illinois, do you not?

Mr. Lanigan: We do.

Mr. Thorne: Have you any idea how many?

Mr. Lanigan: No.

Mr. Thorne: Can you state it approximately?

Mr. Lanigan: No; I never made any calculation.

Mr. Thorne: Aside from this dozen trains, then, of the highest class that you have described, what is the fair way to de-

1679 scribe the rest of your trains? Is it fair to describe them as local trains? You give me your term. I do not want to quibble over a term.

Mr. Lanigan: Yes; I would say a local train would be a fair description.

Mr. Thorne: Have you ever made any attempt to find out the proportion of state and interstate passengers on these local trains?

Mr. Lanigan: Yes; we have another exhibit here that reflects the condition.

Mr. Thorne: Confined to what I have just described as local trains?

Mr. Lanigan: Well, no, but it classifies the Illinois Central Road by operating divisions. It shows the business on the so-called shorter lines which are principally main lines, and the other lines show for themselves.

Mr. Thorne: Well, that exhibit shows that the bulk of the travel on the branches is intrastate?

Mr. Humburg: To what exhibit are you now referring, Mr. Lanigan?

Mr. Lanigan: Exhibit Number 17.

Mr. Thorne: Is that statement correct?

1680 Mr. Lanigan: It shows that the——

Mr. Thorne (interrupting): In Illinois?

Mr. Lanigan (continuing):—so-called shorter lines which are practically main lines that of the total 57.6 per cent is intrastate and that of the balance of Illinois, which would include our other lines in Illinois, 65.9 is intrastate.

Mr. Thorne: In that balance of Illinois you include the Wisconsin division and Minnesota division?

Mr. Lanigan: In Illinois, yes.

Mr. Thorne: How could you arrive at such a low percentage if it is just Illinois, when the branch lines above there show the intrastate to be 99.2, 90.5 and 98.9—Peoria to Evansville is 89.1?

Mr. Lanigan: Well, the percentages vary enough I think to reach that conclusion.

Mr. Thorne: Then it suddenly drops to 60 per cent when it gets to the average of all?

Mr. Humburg: That conclusion is not warranted. You can go ahead and figure it up. If there is an error you can correct the record.

Examiner Gutheim: It is not a simple average; it is a weighted average, is it not, when you get to the bottom?

1681 Mr. Lanigan: It is not an average of averages, no, certainly not.

Mr. Thorne: If the service and cost of that branch line and local travel is less than on this dozen trains to which reference has been made and two-thirds of the travel on these cheapest trains is intrastate instead of interstate it would be a fair deduction, would it not, that the character of the service on the average tendered to the intrastate travel is less expensive than to the interstate travel?

Mr. Lanigan: You say if two-thirds of the traffic were on the branch lines?

Mr. Thorne: Oh, no, I said two-thirds of the travel that is on the branch lines is intrastate travel.

Mr. Lanigan: May I have the question read,please?

(Question read by the Reporter.)

Mr. Lanigan: It is a difficult question to answer yes or no. The heavier trains, of course, do a heavier business, and the heavier expense which follows is justified by the greater traffic, so I could not answer your question yes or no just as you put it.

Mr. Thorne: Why I ask you is because when these same railroads appear in these state cases before courts they are constantly

1682 claiming that to be true.

Mr. Humburg: Now that is not warranted.

Mr. Thorne: And I was surprised somewhat at counsel not admitting it to be true before the Interstate Commerce Commission.

Mr. Humburg: I submit, Mr. Examiner, if counsel on the other

side want evidence of a certain nature in this record they call a witness. It is not fair to state alleged facts in questions.

Examiner Gutheim: The Commission is not accustomed to decide these cases on the evidence of counsel.

Mr. Thorne: That is all.

Mr. Mullen: Mr. Lanigan, will you state in a general way just what part you have had in the preparation of these exhibits which have been offered by you?

Mr. Lanigan: They have all been prepared under my personal direction.

Mr. Mullen: What assistance have you had in doing it?

Mr. Lanigan: I have had the assistance of members of our rate department.

Mr. Mullen: Did you give the directions for the compilations of these various exhibits?

Mr. Lanigan: Yes, sir.

1683 Mr. Mullen: When did you undertake this work?

Mr. Lanigan: I do not remember the exact date, but shortly after we received word of the filing of the complaint.

Mr. Mullen: You mean the complaint of the Business Men's League of St. Louis?

Mr. Lanigan: Yes, sir.

Mr. Mullen: Has all this work of compilation been done since that time?

Mr. Lanigan: Yes, sir; every bit of it.

Well, I will qualify that by saying that some of the statistics of the Illinois Central Railroad, showing the seven years prior to the reduction of the 2-cent fare law, and seven years following was a statement we already had made.

Mr. Mullen: Is that the only part of it that you had previously compiled?

Mr. Lanigan: I will have to go through and see now. I do not know offhand.

Exhibit Number 4 is a reproduction of an exhibit used in a case before the Interstate Commerce Commission in connection with the charge over the Dubuque Bridge at Dubuque, Iowa.

Exhibit Number 10 showing the traffic between Chicago and St. Louis is a compilation of monthly statements received by
1684 us from our accounting department commencing with the advance in the fare December 1st, 1914.

Exhibit Number 17 I think is a monthly statement that is regularly compiled by our accounting department.

All the other exhibits were prepared following the filing of this complaint.

Mr. Mullen: Referring to your Exhibit Number 2, your column number 4 covers the period from December 1st, 1912, to May 1st, 1914, and I think you stated that period was selected because of some decision of the Interstate Commerce Commission rendered at that time.

Mr. Lanigan: December 1st, column 4—no; the 4th Section of the Act to Regulate Commerce makes it unlawful to have fares

higher than the aggregate of the intermediate fares subject to the Act, so that it was necessary for the railroads to make a revision to eliminate any conflict with the law.

Mr. Mullen: And such a revision was made on December 1st, 1912?

Mr. Lanigan: Effective that date, yes, sir.

Mr. Mullen: And what caused the next change on May 1st, 1914?

Mr. Lanigan: I believe my answer to your last question would be the answer to the one you now ask.

1685 The change on December 1st, 1912, was to cut out the fares in excess of 2½ cents a mile.

It seems that when the Interstate Commerce Act was amended the carriers in Central Passenger Association territory could not revise all of their fares and they petitioned the Commission from time to time for an extension. Several extensions were granted, but finally the Commission said that the roads would have to reduce all the fares in excess of 2½ cents per mile, so that caused the adjustment as of December, 1912.

Now the adjustment of May 1st, 1914, was to eliminate the fares in excess of the aggregate of the intermediate fares in compliance with Section 4 of the Act.

Mr. Mullen: That was done without any further order of the Interstate Commerce Commission, was it?

Mr. Lanigan: Yes.

Mr. Mullen: In the construction of passenger fares from various points in Illinois to St. Louis is a bridge toll included in all fares?

Mr. Lanigan: From Illinois points to St. Louis?

Mr. Mullen: Yes.

Mr. Lanigan: Yes; the bridge charge; the fare from East St. Louis to St. Louis.

1686 Mr. Mullen: Referring for a moment to your Exhibit Number 11, which gives in one column the maximum passenger fare per mile in the 48 states, in those states which fix a maximum of more than 2 cents per mile is there a large amount of passenger movement based upon mileage books less than that amount?

Mr. Lanigan: In what states?

Mr. Mullen: In any of them.

Mr. Lanigan: In some states, yes, sir.

Mr. Mullen: In what proportion of them?

Mr. Lanigan: I could not tell you in proportion, because I have not made a study of all the states.

The mileage arrangements are rather complicated if you attempt to analyze each one. I have not done that.

Mr. Mullen: You made some comparison on your direct examination of the density of population in the Eastern territory with the density of population in Illinois?

Mr. Lanigan: Yes.

Mr. Mullen: Would you say that the density of population in the Eastern territory is greater in proportion to miles of road than in Illinois?

Mr. Lanigan: It is greater per mile of road.

Mr. Mullen: It is greater?

1687 Mr. Lanigan: That is what I understand, yes, sir. That is my information.

Examiner Gutheim: Is that also shown on your Exhibit 11, population per mile of railroad?

Mr. Lanigan: The population per mile of railroad, using New England territory as 100 per cent, shows Trunk Line 90.7, Central territory 53.7.

Examiner Gutheim: Mr. Mullen's question went to Illinois.

Mr. Lanigan: The population per mile of road in Illinois is 491, in Massachusetts 1666, Rhode Island 2846, Pennsylvania 704, Maryland 941, New Jersey 1191, Connecticut 1180, New York 1141.

Mr. Mullen: Is that all shown on your Exhibit Number 11?

Mr. Lanigan: Yes, sir.

Mr. Mullen: What do you say as to the density of population in Eastern territory in proportion to passenger train-miles as compared to the same thing in Illinois?

Mr. Lanigan: I do not think I have that, Mr. Mullen.

Examiner Gutheim: You have on Number 12 your passenger miles New England, Trunk Line, Central Passerger Association and total, and also for Illinois, and then you have your population on Exhibit 11.

1688 Mr. Lanigan: That could be figured up.

Mr. Humburg: In other words, the answer to that question could be worked out by an examination of these exhibits.

Mr. Mullen: That is sufficient, then.

Your Exhibit Number 9 shows between Illinois points and East St. Louis an increase in the number of tickets sold in January, 1915, over the number of tickets sold in January, 1913 and 1914, and similarly for the month of June.

Prior to January 1st, 1914, the roads in Illinois carried a considerable number of passengers on free transportation, did they not?

Mr. Lanigan: I do not know; I am not familiar with that. I know some traveled on free, but to what extent I do not know. Our department does not handle the free transportation.

Mr. Mullen: But that ended after the Illinois Public Utilities Law went into effect in January, 1914?

Mr. Lanigan: The Public Utilities Act, of course, prevents the issuance of free transportation.

Mr. Mullen. Would that have any effect upon increasing the number of passenger tickets sold in Illinois?

Mr. Lanigan: If those who formerly received free transportation continue to travel I should say yes.

1689 Mr. Ropiequet: It made quite a difference to Springfield, Illinois, while the legislature was in session?

Mr. Humburg: Another one of those unwarranted remarks.

Mr. Ropiequet: No; I am asking him a fact. It is warranted.

Mr. Kane: Mr. Lanigan, do you know what brought about this 2-cent fare in Illinois?

Mr. Lanigan: No; I wish I did.

Mr. Kane: Well, do you know why it was put into effect? Who put it there?

Mr. Lanigan: Well, I understand that the legislature, without in my opinion a thorough investigation, put it in.

Mr. Kane: Now, never mind. We will take that up in the brief.

Mr. Lanigan: You asked for the reason and I gave it to you.

Mr. Kane: Do you know who put it there?

Mr. Lanigan: It is an enactment; it is a law; it is on the statute books.

Mr. Kane: It is one of the Illinois statutes as you understand it, is it not?

Mr. Lanigan: Yes, sir. That does not make it right, though.

Examiner Gutheim: Is there anything else of this witness?

Mr. Thorne: Mr. Lanigan, will you please turn to your
1690 Exhibit 12. As one of the facts from which you deduced one of your conclusions you stated a comparison shown on that exhibit as the revenue per passenger-mile and per train-mile in Illinois compared to Eastern territory?

Mr. Lanigan: Yes, sir.

Mr. Thorne: You have in your previous answer stated that the Illinois Central had a revenue per passenger-mile as great or greater than the Central Passenger Association territory if you exclude the commutation service. That is correct, is it not?

Mr. Lanigan: I have not the figures of other Illinois roads.

Mr. Thorne: I said the Illinois Central; I did not say the state of Illinois.

Mr. Lanigan: I understood you to say a comparison of our road.

Mr. Thorne: Read the question.

Examiner Gutheim: Read it, Mr. Reporter.

(Question read by the Reporter.)

Mr. Humburg: I suggest, Mr. Examiner,——

Mr. Thorne (interrupting): I object. Let the witness answer.

Examiner Gutheim: Answer the question, Mr. Lanigan.

Mr. Lanigan: I was just thinking. I cannot make a com-
1691 parison because the figures of Illinois that we have before us have the commutation fares of the other roads included, so that we cannot possibly make a comparison.

Mr. Thorne: Mr. Lanigan, the question does not state Illinois. It states Illinois Central.

Mr. Lanigan: I did not get it then.

Mr. Thorne: Read the question again.

Mr. Humburg: You mean, Mr. Thorne, as a system?

Mr. Thorne: Let the witness answer.

Mr. Lanigan: That is what I want to state, that the figures of the Central territory necessarily include the commutation figures of those roads, so it is not a comparison.

Mr. Thorne: What is the average on the Illinois Central exclusive of the commutation service?

Mr. Lanigan: I think it is 1.98.

Mr. Thorne: 1.98?

Mr. Lanigan: Yes, sir.

Mr. Thorne: And what is the average in Central territory inclusive of the commutation charges?

Mr. Lanigan: Including the commutation charges?

Mr. Thorne: Yes, sir.

Mr. Lanigan: 1.936.

1692 Mr. Thorne: Now you have previously stated that in your judgment that 1.96 was fairly representative of the average of all traffic except the commutation service that would largely exist in the state of Illinois for the year?

Mr. Lanigan: Yes.

Mr. Thorne: Consequently, if you exclude the commutation service is it not correct to say that the Illinois Central average would thereby be greater than the Central Association average if the bulk of the Central Association average is in Illinois so far as the commutation is concerned?

Mr. Lanigan: Well, I do not know. The average in the Central territory, of course, is made up of the conditions throughout all the territory and includes all the commercial centers, all the traffic.

Mr. Thorne: But the bulk of the commutation service is in the state of Illinois, is it not?

Mr. Lanigan: When the Illinois traffic is in Chicago.

Mr. Thorne: I say the bulk of the commutation service in the Central Freight Association is in Illinois, is it not?

Mr. Lanigan: I never made any comparison to show where the bulk would rest.

Mr. Thorne: What is your judgment?

1693 Mr. Lanigan: I have not any figures upon which to base judgment.

Mr. Thorne: I ask you to turn to Trunk Line territory. That average is 1.738?

Mr. Lanigan: Yes, sir.

Mr. Thorne: That includes commutation service as well as regular ordinary travel, does it not?

Mr. Lanigan: Yes, sir.

Mr. Thorne: The average in Illinois is 1.731, which includes both the commutation and the ordinary travel?

Mr. Humburg: Where does that appear?

Mr. Thorne: 1913, cents per passenger-mile.

Mr. Humburg: I do not find that.

Mr. Thorne: I desire the witness to follow it.

Mr. Lanigan: That is in 1913?

Mr. Thorne: Yes, sir.

Mr. Lanigan: I have it.

Mr. Thorne: These averages would indicate there was a slight excess in Trunk Line territory?

Mr. Lanigan: Yes.

Mr. Thorne: On the other hand if the percent of commutation service in the state of Illinois alone was greater than in

1694 Trunk Line territory as a whole, that would be reversed, would it not, if it was substantially greater?

Mr. Lanigan: In Illinois?

Mr. Thorne: Yes, sir.

Mr. Lanigan: Well, it depends altogether upon what percentage of the whole is represented by the commutation traffic.

Mr. Thorne: Precisely, and that is the question.

Mr. Lanigan: You are dealing in general terms and I have not any figures on which to base it.

Mr. Thorne: That was my question, if that was the percentage.

Mr. Lanigan: I could not give you the definite answer until I have the facts before me.

Mr. Thorne: Granted that it does, and you do not know the percentage, then can you state at the present time a conclusion? Are you not unable to state a conclusion as to whether the passenger revenue per passenger-mile on ordinary travel exclusive of the commutation service is greater or less in Illinois than in the Trunk Line territory? You cannot state it until you have that percentage, can you?

Mr. Lanigan: On the basis of our general experience. It would naturally follow that on all the business that you handle at the regular rates based upon a higher rate per mile would
1695 naturally yield a greater return than traffic on a lower rate per mile.

Mr. Thorne: That is the conclusion you deduce your conclusion from instead of these facts, is it?

Mr. Lanigan: No, sir; from both. The figures speak for themselves as shown.

Mr. Thorne: Well, the same fact your attention has been called to relative to the effect of commutation service on passenger volume would also affect your figures showing the passenger revenue per train-mile, would it not?

Mr. Lanigan: I should say the greater the city the greater the commutation traffic.

Mr. Thorne: That would correspondingly reduce the revenue per train-mile?

Mr. Lanigan: Not necessarily. It shows here to have a higher rate per train-mile than you have in this territory because of the heavy volume of traffic.

Mr. Thorne: It shows the revenue per passenger-mile is slightly in excess?

Mr. Lanigan: It shows the passenger train is greatly in excess of the Illinois passengers per train in Eastern territory. It shows they carry 80 passengers per train, whereas in Illinois they
1696 carry 58. That is bound to be reflected in your passenger revenue per passenger train-mile.

Mr. Thorne: Well, the greater density of that passenger revenue per train-mile is where? Is it the commutation travel or is it the ordinary travel?

Mr. Lanigan: Everything, all passenger travel.

Mr. Thorne: Where are the greater train-mile earnings, in the commutation service or the ordinary service?

Mr. Lanigan: I have not the separation.

Mr. Thorne: You cannot give your judgment on that?

Mr. Lanigan: No.

Mr. Thorne: So then it would be impossible for us to tell from these figures the actual effect that the commutation service being mixed with them would have on those averages until we knew what those figures were?

Mr. Lanigan: Your average passenger per mile?

Mr. Thorne: Per train-mile and per passenger per mile. And when I ask you for your judgment you are unable to give me your judgment?

Mr. Lanigan: Only to the extent I based my opinion on the figures we put in evidence here from the New York, New Haven & Hartford.

1697 Mr. Thorne: Now the New York, New Haven & Hartford is a very exceptional road in this country, is it not, so far as its passenger travel is concerned? What is the per cent of the total earnings that are passenger earnings?

Mr. Lanigan: I do not know. I have heard it said they are about half.

Examiner Gutheim: Well, assuming that it is 50-50, would you say it is an exceptional road in that its passenger business was more in proportion to its total business?

Mr. Lanigan: Surely.

Mr. Thorne: It would not be fair to consider that as typical of the situation in Trunk Line territory, would it?

Mr. Lanigan: No, sir; more typical of the New England territory, being a strong New England line.

Mr. Thorne: That is all.

Mr. Bryan: Do you know the rate from Granite City to St. Louis on the McKinley Line, the passenger fare?

Mr. Lanigan: No; I understand it is about 15 cents. I am not sure though.

Mr. Bryan: 5 cents, is it not?

Mr. Lanigan: I could not say.

Redirect examination:

1698 Mr. Humburg: You were asked, Mr. Lanigan, by Mr. Bryan, whether there had been any increase in the expense of handling passenger traffic from St. Louis over East St. Louis and I believe you answered in the negative. Is it correct to say that by that you meant that there had been no relative increase St. Louis over East St. Louis in recent years?

Mr. Lanigan: Yes; there has been no relative increase.

Mr. Humburg: Your answer was directed to the question of relationship from East St. Louis to Illinois versus St. Louis to Illinois, that there had been no relative increase St. Louis over East St. Louis?

Mr. Lanigan: No.

Mr. Humburg: There is, of course, a greater expense attached to the service to and from St. Louis than to and from East St. Louis?

Mr. Lanigan: Naturally, yes.

Mr. Humburg: Now another question. I will ask you to look at the Official Railway Guide at Page 903 for the month of November, 1915, where appear the schedules of the Chicago, Burlington & Quincy Railroad trains operating from St. Louis to Rock Island, and I will ask you what is the mileage there stated opposite Rock Island as the distance from St. Louis to Rock Island.

1699 Mr. Lanigan: 262 miles.

Mr. Humburg: And that is the same distance shown on your exhibit?

Mr. Lanigan: Yes, sir.

Mr. Humburg: Referring to the question asked of you by Mr. Ropiequet, is it true that in proportion to population there are as many or more trains into and out of East St. Louis than into and out of St. Louis to points in Illinois?

Mr. Lanigan: I have not made any calculation, but offhand I should say yes.

Mr. Humburg: Referring to the question propounded by Mr. Kane, or Mr. Thorne, concerning the use of the local train or the through train, has it been your observation that where the carriers operate different trains that stop at the same place that ordinarily the passenger chooses the better train, other things being equal, notwithstanding the fact that it may be an intrastate train?

Mr. Lanigan: If he has good judgment he does.

Mr. Kane: Mr. Lanigan, would not that depend on whether or not this train was more convenient to him and suited his business or convenience?

Mr. Lanigan: I understood that was the purpose of Mr.
1700 Humburg's question, that he would not take the better train unless it served his convenience.

Mr. Humburg: These bridge tolls to which reference has been made by Mr. Thorne, no increase being proposed in them, they are largely in the nature of payments made by the roadhaul line to the terminal, are they not?

Mr. Lanigan: Well, they are made to eventually pay that haul to the terminal, yes.

Mr. Humburg: To reimburse that company that much per car that goes to the terminal?

Mr. Lanigan: Well, to reimburse as far as that revenue will go.

Mr. Thorne: What about these people getting off, Mr. Humburg, before they cross the bridge?

Mr. Humburg: The service of the suburban traffic was mentioned. Those are principally short runs within the limits of the city of Chicago, are they not?

Mr. Lanigan: Yes.

Recross-examination:

Mr. Kane: Mr. Lanigan, will you refer to that Official Guide, please? What is the distance from Rock Island to Rio?

Mr. Lanigan: 42 miles.

Mr. Kane: What is it from Rio to St. Louis?

1701 Mr. Lanigan: 207.

Mr. Humburg: That would make 249, would it not?

Mr. Lanigan: By the route over which you figure.

Mr. Humburg: Look at the map and see whether Rio is on the direct line between Rock Island and East St. Louis, the main line running through Monmouth?

Mr. Lanigan: It is true over that route, but the fare is not made over that route, nor perhaps is it applied by that route.

Mr. Humburg: I am asking you the short-line distance from Rock Island to St. Louis.

Mr. Lanigan: I stated in answer to your question this is the shortest and most direct train service.

Examiner Gutheim: Can we not leave the rest of that for argument? It is sufficiently in the record there are those two mileages and the witness has stated why he shows the one.

Redirect examination:

Mr. Humburg: Mr. Lanigan, reference was made to the 4th Section Orders 899 and the Supplement Order 2120. I wish you would just for the purpose of identification read into the record very briefly—it is only a paragraph—the substance of that order.

1702 Mr. Lanigan: "The Commission is also of the opinion that while the petitioners herein should be permitted to continue their present fares that are higher than the sum of the intermediate fares, such fares ought not to be exceeded, and that in view of the fact that the general basis for interstate fares in this territory (meaning Central Passenger Association territory) is approximately 2½ cents per mile, said through fares should not exceed this amount."

Mr. West: What was that said in and when?

Mr. Lanigan: That is in the 4th Section Order Number 899 extended by 4th Section Order Number 2120.

Mr. Humburg: Now, Mr. Lanigan, you were interrupted by me in connection with your direct examination as to the reasons for your conclusion that you expressed on direct examination concerning the reasonableness of the interstate fares and the low level of the intrastate fares in Illinois. Will you continue to complete your answer on that?

Mr. Lanigan: One of the additional reasons I had for reaching that conclusion was the consideration given by the Commission in the Eastern 5 per cent case wherein the Commission stated that the roads were not getting as much revenue out of their passenger business as they should and that the passenger fares generally

1703 should be advanced.

Mr. Thorne: We object to that.

Mr. Kane: Is not that argument?

Examiner Gutheim: It is.

Mr. Kane: Let us dispense with that.

Mr. Lanigan: Further, that in the case of fares in Massachusetts

the whole question of fares was gone into thoroughly by the Massachusetts Commission.

Mr. Thorne: We object to that as incompetent and immaterial.

Mr. Humburg: Pass on to the next one. We will use that in argument.

Mr. Lanigan: Well, finally the passenger service is on a reasonably high standard, more expensive equipment is necessary to meet safety and other demands of progress and the natural desire of the public for betterments.

These, together with other reasons and testimony of other witnesses, leads me to strongly conclude——

Mr. Thorne (interrupting): We object.

Examiner Gutheim: Now we are getting into argument.

Mr. Humburg: I submit that is entirely proper. There has been evidence here by Mr. Wettling and others to show the data and is——

1704 Mr. Thorne (interrupting): And he is usurping the functions of the deciding tribunal when he is passing on testimony of other witnesses. I submit it is passing the limit.

Mr. Humburg: It is nothing improper. He is a passenger man experienced in this matter and it appears to me to be a proper conclusion and he may state briefly.

Mr. Thorne: Objected to as calling for the opinion and conclusion of the witness and the witness is incompetent and the matter is immaterial.

Examiner Gutheim: Proceed, Mr. Lanigan.

Mr. Lanigan (continuing): —leads me strongly to conclude that the 2½-cent basis is not unreasonable; that the 2-cent intrastate basis is unreasonably low, improperly places a burden upon interstate commerce and in a substantial degree defeats the lawfully filed interstate tariffs and to that extent the state-made 2-cent fares actually regulate the charges made on interstate traffic.

Recross-examination:

Mr. Mullen: Mr. Lanigan, from what have you read your last answer?

Mr. Lanigan: From my own memorandum.

Mr. Ropiequet: Mr. Lanigan, that bridge toll of 25 and
1705 35 applies on all traffic from Illinois no matter where it comes from, does it not?

Mr. Lanigan: Except where the rates are made on Granite City. I think there are some few cases where they combine the Granite City rate.

Mr. Ropiequet: And that is the payment to the Terminal Company to cover the expense of taking this traffic from the east side to the west side above the east side traffic, is it?

Mr. Lanigan: I do not quite get the question as to the payment feature.

Mr. Ropiequet: That 25 cents is the charge of the Terminal Com-

pany for the transportation of these passengers from the east side over to St. Louis?

Mr. Lanigan: No; not necessarily that. I said that that charge went to the payments made to the Terminal Company.

Mr. Ropiequet: Went to the payments made to the Terminal?

Mr. Lanigan: Yes; that is on a per-car basis.

Mr. Ropiequet: But it is a specific payment towards that special service, is it not?

Mr. Lanigan: Well, it is a specific service for the hauling of the trains across the bridge.

Mr. Ropiequet: Your line is a part of the terminal, is it not?

1706 Mr. Lanigan: I am not familiar with the organization of the Terminal Company.

Mr. Ropiequet: Did you mean to state that the expenses of those terminals had not increased during these later years, the transportation expenses of the terminals and their general expense?

Mr. Bryan: The witness did not state that.

Mr. Ropiequet: I asked if he said it.

Mr. Lanigan: I did not make any statement or did not intend to, at least, on the expense of terminals.

Mr. Ropiequet: But this charge remains the same notwithstanding the expense has not increased?

Mr. Bryan: The witness has not stated they have not increased.

Mr. Lanigan: Which charge?

Mr. Ropiequet: 25 and 35.

Mr. Lanigan: The record shows it has been in effect a number of years.

Mr. Ropiequet: There has been no attempt to advance that portion of it, but the increase has been predicated on the Illinois part of the haul, has it not?

Mr. Lanigan: Are you speaking now of the fares to Illinois?

Mr. Ropiequet: Yes, sir.

1707 Mr. Lanigan: I will say the same as to other states; we used the mileage in the state of Illinois.

Mr. Ropiequet: So if you increase the fare as proposed here you will increase the fare from East St. Louis 5 per cent?

Mr. Lanigan: Yes, sir.

Mr. Ropiequet: But the difference between St. Louis and East St. Louis as far as Eads bridge is concerned will remain 25 cents?

Mr. Lanigan: I did not say what we might have in mind as to the future, but that is the way they are compiled at the present time.

Mr. Ropiequet: That is all.

Mr. Humburg: The bridge charge is in the nature of a division of the through fare?

Mr. Lanigan: As published it is a part of the through fare.

Mr. Kane: But the bridge toll is added to the fare to East St. Louis, is it not? The bridge toll is taken in consideration in making that fare, is it not?

Mr. Lanigan: That is the method of compiling passenger fares. We add the fares from point to point. The fare from St. Louis to

East St. Louis is 25 cents and it finally becomes a component part of the entire fare.

1708 Cross-examination:

Mr. Bryan: You mentioned that there was greater expense in the passenger service now than there was formerly?

Mr. McNamara: Yes, sir.

Mr. Bryan: There is no greater relative expense in coming to St. Louis as against East St. Louis or in operating between Chicago and Illinois points than there was before, is there?

Mr. McNamara: Yes, sir; there is half a cent a mile more coming to St. Louis than there was before.

Mr. Bryan: That is the expense to the passenger?

Mr. McNamara: Oh, as to the railroad?

Mr. Bryan: Yes, as to the railroad there is no greater expense, is there, relative expense?

Mr. McNamara: No.

1709 Mr. Bryan: It does not cost you any more to do business between St. Louis and East St. Louis than it did before this increase of interstate rates went into effect?

Mr. Brown: You mean relatively, Mr. Bryan?

Mr. Bryan: Yes.

Mr. McNamara: No; relatively. It probably costs us considerable more than it did in 1906. It does not cost any more in there than it did any other place.

Mr. Bryan: It does not cost any more actually to do business between St. Louis and East St. Louis now than it did before this increased rate went into effect in 1914, does it? You do not have to pay the Terminal Railroad Association any more, do you?

Mr. McNamara: No; I do not think we do. I presume our terminal costs may be up some on account of the general rise in the scale and car cleaning and wages of switchmen and things of that character that may have been advanced, but in the general scale of things it is not any more.

Mr. Bryan: Do you pay any more to the Terminal Association per passenger than you did before 1914?

Mr. McNamara: No, sir; we do not.

Mr. Bryan: And that represents the difference in the ex-
1710 pense of operating between St. Louis and Illinois points and east side points and Illinois points intrastate?

Mr. McNamara: Yes.

Examiner Gutheim: Any questions by the interveners?

Mr. Mullen: Mr. McNamara, what is the distance from Kansas City to Excelsior Springs?

Mr. McNamara: 33 miles.

Mr. Mullen: What is the reason in your mind for the loss of business to the interurban in that case?

Mr. McNamara: We maintained for a while the service we had on there, but we could not hold the business. We had to get out of it. The people went to the interurban line. They wanted to

get up town in Kansas City. The service of the interurban was more convenient for them and more frequent.

Mr. Mullen: Does that same reason apply to the losses on interurban traffic in Illinois?

Mr. McNamara: Yes; I should say generally it does.

Mr. Mullen: Are there any other reasons in your mind?

Mr. McNamara: No; the rates are, generally speaking, the same.

Mr. Mullen: What would be the effect if the railroad rates were increased beyond the present rate on that competition?

1711 Mr. McNamara: I do not think we would lose anything. I think the interurban can take it away from us at a higher rate.

Mr. Mullen: Would they take more if you were charging a higher rate than they would if you were charging the present rates?

Mr. McNamara: It might make some difference in the movement.

Mr. Mullen: Do you not think that will be the effect of it?

Mr. McNamara: No; the steam railroad cannot take the business away from the interurbans.

Mr. Mullen: But cannot the interurbans take it away from the steam railroads?

Mr. McNamara: I do not think any more than they have.

Mr. Mullen: Even if you increase your rates?

Mr. McNamara: No, sir; we would not hesitate a minute on the Wabash to apply an increase of rates if the interurban did not come up with the rate. I do not think we would lose anything.

Mr. Kane: Mr. McNamara, you say your interstate rate to St. Louis is 2½ cents a mile?

Mr. McNamara: Yes, sir.

Mr. Kane: Is there any place where you have a rate less to

1712 St. Louis than to East St. Louis?

Mr. McNamara: I did not get the question.

Mr. Kane: Have you any place on your line where you make a less rate to St. Louis than to East St. Louis?

Mr. McNamara: Any points on our line where we make a less rate to East St. Louis—

Mr. Kane: To St. Louis than to East St. Louis?

Mr. McNamara: No; I do not think so.

Mr. Brown: That is east of the River?

Mr. Kane: I am asking you if there are any points in Illinois where you make a lower rate to St. Louis than to East St. Louis?

Mr. Brown: No; I do not think so.

Mr. Kane: What is your round trip rate from Litchfield to St. Louis good for five days?

Mr. McNamara: I think it is $1.20 or $1.18. Good for five days it is $1.85.

Mr. Kane: What is it to East St. Louis, round trip?

Mr. McNamara: $1.75.

Mr. Kane: $1.75?

Mr. McNamara: Yes, sir.

Mr. Kane: To East St. Louis?

Mr. McNamara: Yes, sir.

1713 Mr. Kane: What is your one-way rate?

Mr. McNamara: I think the one-way rate from Litchfield to East St. Louis is $1.18.

Mr. Kane: And you have a round trip rate to East St. Louis less than the rate to St. Louis?

Mr. McNamara: Yes, sir; and there is less rate to Granite City than to St. Louis, $1.60.

Examiner Gutheim: Any other questions, Mr. Kane?

Mr. Kane: No; that is all.

Mr. Ropiequet: Do you use your own engines in taking the passenger traffic across the Eads Bridge?

Mr. McNamara: Yes, sir.

Mr. Ropiequet: Do you charge that expense to the Illinois traffic, that engine service?

Mr. McNamara: I do not know how it is classified. I would not attempt to answer.

Mr. Ropiequet: All right, if you do not know, that is all.

Examiner Gutheim: Any others?

Mr. Thorne: You have spoken of some increases in the service and the kind of equipment during recent years. You have named the use of steel cars, electric lights, larger engines. Most of these improvements of an extensive character have occurred since 1907, would you say?

1714 Mr. McNamara: Yes, sir; I would say that.

Mr. Thorne: There have been much greater improvements since 1907 than during the preceding years?

Mr. McNamara: Yes, sir; I would say that.

Mr. Thorne: In the freight service you have used steel cars. The object of their use was not to make it any more comfortable for the hogs or cattle in the transportation, was it? It was supposed to be an economy, was it not?

Mr. McNamara: I cannot answer as to that.

Mr. Thorne: Have you considered the question of the use of steel cars in the passenger service as to whether or not the decrease from the depreciation and maintenance allowance ought to offset the interest on the increased investment?

Mr. McNamara: I have heard the operating men talk about it and they say they do not know yet; they have not had the steel cars long enough to say whether they will save anything of that kind or not.

Mr. Thorne: They have not made up their minds yet as to whether it is an economy or not an economy?

Mr. McNamara: That is it.

Mr. Thorne: So you would not be able to say whether the steel equipment does result in economy or not?

1715 Mr. McNamara: I could not answer that.

Mr. Thorne: Next as to the increase in the speed. Do you know whether there has been any increase in the speed of the local trains as compared to the local trains in prior years?

In the Western Passenger advance case there was considerable evidence in the shape of answers to interrogatories where it was stated

that the speed had not shown any substantial difference in the two periods. Is that true of your road?

Mr. McNamara: I would say that there has been an increase in the speed of through trains, but not necessarily of local trains. Branch line trains probably run on the same scale of speed they were run in prior years.

Mr. Thorne: You have spoken of the evidence or the investigation upon which the legislature acted in relation to a reduction of the passenger fares. Of course, you are aware of the fact that those legislators had access to your annual reports which showed that the average revenue was very close to the maximum that they established?

Mr. Brown: We object to a statement as to what they showed.

Mr. Thorne: Is it not true that they do show that?

Mr. McNamara: On the Wabash Railroad, yes, it does show that.

1716 Mr. Thorne: And also at that time you were giving mileage books, were you not, by which you made no greater charge than the maximum established by the state?

Mr. McNamara: Yes, sir.

Mr. Thorne: And the average today is no greater than the average before those laws went into effect?

Mr. McNamara: That is true on our railroad.

Mr. Thorne: So that what really happened was the removal of somewhat widely varying rates at that time, or fares. You had more reduced fares, more half fare permits, more excursion rates than you do now, did you not?

Mr. McNamara: I think we did, yes. We had more excursion rates.

Mr. Thorne: So you have a more uniform scale today than then rather than a higher fare today than then?

Mr. McNamara: Well, we have on the Wabash Railroad a pretty high scale of rates outside of these state rates. We have never reduced our interstate fares. We have been rather fortunate in that respect. We have had a 2½-cent a mile basis in the state of Illinois on a great bulk of the interstate business and in some instances as high as three cents a mile in the construction of our interstate rates; 2½ cents in the state of Indiana; and in Missouri for a long

1717 while we enjoyed 2½ cents and during that period we had a very good rate for the reason that when we had three cents in Missouri we also had a two-cent mileage book and when we went to the 2½-cents voluntarily we had no mileage book; everybody paid 2½ cents; and that helped our scale amazingly.

Mr. Thorne: Then, aside from these interstate scales would it be your judgment, on the intrastate travel the result of these laws has been to make the fare more uniform and remove the special fares that existed before, while at the same time it removed the three-cent fares that existed before?

Mr. McNamara: Well, it is true that we have an average rate; we have a uniform rate; but we have had the same hue and cry for reduced rates under the two-cent law that we had under the three-cent law, for conventions and things of that kind.

Mr. Thorne: But it is more uniform regardless of the hue and cry?

Mr. McNamara: It is more uniform, and I know the railroad does not do as well under it as to revenue.

Mr. Thorne: You have given some figures as to revenue in this case. I notice you give the figures for 1908, 1909 and 1907?

1718 Mr. McNamara: Yes, sir.

Mr. Thorne: You have had occasion to examine your statistics for many years undoubtedly. Is it not true that the variations are up and down over short periods of time of three and four and five years?

Mr. McNamara: Yes.

Mr. Thorne: There is a fluctuation in business that causes that?

Mr. McNamara: Yes, sir.

Mr. Thorne: Have you there the gross passenger revenues last year or the year before?

Mr. McNamara: Yes, sir.

Mr. Thorne: Without taking the time to look those up perhaps we can agree on what they show. Do they show a passenger revenue today greater than before the two-cent passenger laws went into effect, does it not, in the state of Illinois?

Mr. McNamara: Well, I have not the state of Illinois, I have only the state of Illinois figures for 1907, 1908 and 1909 and we stopped keeping the statistics at that time. We could not afford to keep them.

Examiner Gutheim: And how about the total?

1719 Mr. McNamara: The total of the Wabash Railroad for the last fiscal year ended June 30th, 1913, was $6,126,685.

Mr. Thorne: What was it in 1907?

Mr. McNamara: $6,891,300.

Mr. Thorne: What was it in 1913 on the Wabash?

Mr. McNamara: In 1913 was $7,268,300.

Mr. Thorne: And in 1907 again?

Mr. McNamara: $6,891,300.

Mr. Thorne: 1914 is slightly less and 1913 is greater?

Mr. McNamara: 1914 I did not give you. It is $7,291,974.

Mr. Thorne: So that was also greater than the 1907?

Mr. McNamara: Yes, sir; by about $300,000.

Mr. Thorne: Well, is it not true that whether it shows it for the Wabash or not the railroads as a whole in this territory show a very substantial—that is amounting to several millions of dollars greater passenger earnings during the last two or three years?

Mr. McNamara: Yes; I think if the railroads as a whole in this territory could have the earnings of today and the expenses of 1907 they would be in pretty good shape. The great difficulty is that the expenses have gone up amazingly.

Mr. Thorne: Well, while your expenses have gone up there

1720 have been many of those expenses occasioned by a larger amount of replacement, has there not?

Mr. McNamara: I suppose there has been some of that.

Mr. Thorne: You have not made an attempt to distinguish to

see how much has been occasioned by reason of the placing of the property on a higher standard during the recent years than before?

Mr. McNamara: No, sir; I cannot answer that.

Mr. Thorne: Prior to the change in the interstate fare the fare from Chicago to St. Louis was 25 cents higher than from East St. Louis?

Mr. McNamara: Well, to be exact, the rate was $5.80 and it is made 30 cents on Granite City, $5.50 local rate, two cents a mile, plus 30 cents. East St. Louis would have been $5.62 plus 25 cents.

Mr. Thorne: And that difference of 25 cents or whatever it is and 30 cents approximately is to represent the difference in conditions surrounding the two services?

Mr. McNamara: Yes; the difference represents the use of the facility over the bridge.

Mr. Thorne: The dissimilarity of conditions in the travel to St. Louis and East St. Louis?

1721 Mr. McNamara: Yes.

Mr. Thorne: Is it your idea that that was sufficient?

Mr. McNamara: Well, comparatively speaking, yes. We have a similar charge at other bridges throughout the United States; 25 cents at Keokuk, 20 cents at Quincy and 20 cents at Hannibal and so forth.

Mr. Thorne: Considering the service at those places the expenses incurred, the cost of property, facilities and so forth, it is your judgment that the difference is adequate?

Mr. McNamara: Well, I do not see how you could add any more so far as the bridge is concerned.

Mr. Thorne: That facility also includes the terminal service at St. Louis, does it not?

Mr. McNamara: Yes; but if we did not have the bridge there we would have the Terminal service at St. Louis.

Mr. Thorne: So you think it is adequate considering both the Terminal service at St. Louis and the bridge?

Mr. McNamara: From a customary point of view, yes.

Mr. Thorne: Sometimes customes are bad?

Mr. McNamara: The general practice I would say.

Mr. Thorne: In your judgment as a practical man it is adequate to represent the difference in circumstances and conditions surrounding the two sets of hauls?

1722 Mr. McNamara: Yes, sir; as a practical question I do not see how we could change it.

Mr. Thorne: That is all.

Mr. Bryan: Mr. McNamara, your charge for carrying a passenger from Chicago to a point 100 miles, say, in Illinois, is greater than for carrying a passenger from St. Louis to a point 100 miles in the state of Illinois.

Examiner Gutheim: What is that?

Mr. Bryan: I mean is less. That is so, is it not?

Mr. McNamara: That is true.

Mr. Bryan: What different service do you perform in the one case from what is performed in the other, if any?

Mr. McNamara: Well, I do not know that it is any difference.

Mr. Bryan: The same service, is it not?

Mr. McNamara: Yes. If you will let me express my opinion I think it is the rankest kind of discrimination that we are practicing today. A man gets on at St. Louis going to Chicago and he pays $7.50, and if another man inconveniences himself and goes over on another train, goes to East St. Louis and goes to Granite City on the street car, he will get up to Chicago, for example, for $5.65. If he goes on one of the McKinley lines, if he goes on what they call the local car he will get up for $5.55.

1723 Now, my observation is that about 25 per cent of the passengers are riding on the east side, going to Chicago and coming from Chicago, so there is certainly a discrimination against the 75 per cent that are paying the $7.50 rate, and they ride on the same train.

Mr. Bryan: Have you some figures of the effect of that?

Mr. McNamara: Yes; I have compiled some figures of our own here on East St. Louis.

Mr. Bryan: There is discrimination in favor of Chicago against St. Louis for the reason there is a lesser rate charged for 100 miles out of Chicago to Illinois points than there is charged for 100 miles out from St. Louis to Illinois points?

Mr. McNamara: Yes, sir; I would say so.

Mr. Bryan: Is there any excuse for that discrimination that you know of?

Mr. McNamara: No excuse for it.

Mr. Bryan: In the service performed?

Mr. McNamara: No; there is not any reason *for* a service standpoint whereby we could haul the man out of Chicago any cheaper than we haul the man out of St. Louis.

Now, on this East St. Louis and Granite City proposition

1724 the rate took effect December 1st, 1914; that is, it was raised generally from St. Louis to Illinois points from the 25 cents over the two cent rate in Illinois to 25 cents over the 2½ cent rate in Illinois. At St. Louis there was hauled by the Wabash Railroad from December 1st, 1913, to September 1st, 1914, 226 tickets from East St. Louis to Chicago.

During the period from December 1st, 1914, to September 30th, 1915, there was sold 610 tickets.

An increase of 170 per cent.

Now, on Granite City from December 1st, 1913, to September 30th, 1914, there was sold 242 tickets to Chicago.

For the following ten months, December 1st, 1914, to September 30th, 1915, we sold 2370 tickets.

An increase of 879 per cent.

Now, from Chicago to East St. Louis in that 10 months' period when the two cent rate was in effect there was sold 672 tickets.

And in the following 10 months when the 2½-cent basis was used—

Examiner Guthelm: To what point?

Mr. McNamara: From Chicago to East St. Louis—672.

The following 10 months 2168, or an increase of 221 per cent.

Granite City from Chicago we sold in the first period 311
1725 tickets.

During the next ten months 2068 tickets.

An increase of 561 per cent.

Now, we know from our observation—we see a lot of the rebuy. You would be amazed at the people who go from St. Louis to East St. Louis or Granite City to save the difference in the rate and that come from Chicago and get out early in the morning at Granite City and East St. Louis to save the difference in the rate.

Redirect examination:

Mr. Brown: In that connection, Mr. McNamara, is there not a further discrimination, even conceding the right of the passenger to get out at Granite City and come across on the street car? A passenger that is traveling with baggage, checked baggage, what is his condition with respect to the passenger who has a hand bag?

Mr. McNamara: He has a lot of trouble. We won't check his baggage. Of course, we can't legally check his baggage. We can't make his reservation. We won't have anything to do with him as an interstate passenger. He goes over on one train with his baggage perhaps and has it taken off and has it rechecked and gets on the other train. And the same is true coming from Chicago. We
1726 get lots of complaint about it. It is an awful situation.

Mr. Brown: It is sort of a chaotic proposition?

Mr. McNamara: It is awful. These fellows are raising the devil with us all the time on the train.

Mr. Brown: You have something of the same situation as between Quincy and Keokuk?

Mr. McNamara: Yes; we have had a complaint from Keokuk and Quincy. They complain they are losing their trade because they can go from that territory to Quincy at two cents whereas they have to pay 2½ cents to Keokuk.

Mr. Brown: What are they asking for?

Mr. McNamara: They are asking us to level the thing up. As I understand Keokuk they would like to have the same basis of rate as Quincy; either that we shall reduce the rate to Keokuk to two cents a mile or bring Quincy up to 2½.

Mr. Brown: And they do not seem to be particular how you do it?

Mr. McNamara: No; I understand they want to get on a parity.

Mr. Thorne: We object to that as hearsay, the witness is incompetent. Keokuk is not in favor of advancing the interstate
1727 rates.

Mr. McNamara: Well, I testified to that because it was told me by one of the Keokuk people.

Mr. Thorne: The authorized representative of the Keokuk Industrial Association now informs you we are not asking for an advance in the state rates.

Mr. West: Are you asking for a reduction of the interstate rate?

Mr. Thorne: Yes.

Examiner Gutheim: Evidently there is a difference of opinion in Keokuk.

Mr. McNamara: I was written by Mr. Justice, the head of the Retailers' Association, complaining about the rate into Quincy.

Mr. Brown: Mr. McNamara, in response to a question by Mr. Thorne you gave into the record the passenger revenues for the different years?

Mr. McNamara: Yes, sir.

Mr. Brown: You did not give any figures showing the number of passengers carried for those years?

Mr. McNamara: No, sir.

Mr. Brown: Are they available?

Mr. McNamara: Yes, sir.

Mr. Brown: Suppose you give those, as you can make no
1728 comparison unless you have that.

Mr. McNamara: In 1907 we carried 5,250,400 passengers. In 1913, which was the year, I believe, Mr. Thorne asked about, we carried 6,012,700 passengers.

In 1914 we carried 6,073,751 passengers.

Mr. Brown: That is the last you have?

Mr. McNamara: No; in 1915 we carried 5,530,002 passengers.

Mr. Brown: That is all I have.

Mr. Kane: Mr. McNamara, is there any competition between the points 100 miles from Chicago and a point 100 miles from St. Louis?

Mr. McNamara: I do not believe I can answer that. I would rather have a commercial man answer that.

Mr. Kane: You say a man can travel out of Chicago for 100 miles at a less rate than he will travel out of St. Louis for 100 miles?

Mr. McNamara: Yes, sir.

Mr. Kane: Is there any competition between the two points, one 100 miles from St. Louis and the other 100 miles from Chicago?

Mr. McNamara: I do not know.

Examiner Gutheim: Any other questions?

1729 Mr. Bryan: That is true of 200 and 300 miles, the same, is it not?

Mr. McNamara: Yes, sir.

Mr. Thorne: Mr. Justice is also taking the same position that I stated a moment ago. I do not think the witness is competent to testify.

Mr. Humburg: I think it would be enlightening if we had the petition for intervention.

Examiner Gutheim: We are going to get it tomorrow morning. Is there anything else of this witness? That is all, Mr. McNamara.

(Witness excused).

* * * * * * *

1730 Direct examination:

Mr. Humburg: Mr. Hatch, will you state your name, your occupation and briefly your railway experience in the passenger traffic department?

Mr. Hatch: S. G. Hatch; Passenger Traffic Manager of the Illinois Central Railroad.

I have been General Passenger Agent and Passenger Traffic Manager of that railroad for the past ten years. Prior to that time Assistant General Passenger Agent, Division Passenger Agent, Traveling Passenger Agent, Ticket Agent, Chief Clerk in the general passenger office.

Mr. Humburg: You are informed about the issues in this proceeding and about the fares in question?

Mr. Hatch: Yes, sir.

Mr. Humburg: Will you state the attitude of your company just in your own way without any further inquiries from me so that the Commission may be advised of your position and that of the company you represent?

Mr. Hatch: This is, I would understand, as to the discrimination against St. Louis?

1731 Mr. Humburg: Yes.

Mr. Hatch: It is our policy to avoid discrimination between commercial localities in the making of passenger fares, but we are forced to discriminate in this case on account of the low intrastate fare in the state of Illinois. We recognize that it is discrimination and beyond our remedy under the existing laws.

We find that passengers are being influenced from St. Louis to other localities in Illinois or commercial centers, assuming, of course, that there is any advantage in the lower passenger fare, such as enjoyed by Peoria and Decatur, Bloomington, Springfield and Chicago, and other similarly located points on our rails in Illinois.

All of the statistical data that we have to offer on that subject has been presented by Mr. Lanigan of the passenger department of the Illinois Central Railroad.

We are suffering also on account of the burden placed upon our interstate fares by the intrastate fares in Illinois occasioned by the rebuying at the border points on the east side of the river. That is considerable and is shown fully in Mr. Lanigan's exhibits.

I have nothing further to offer except that this discrimina-
1732 tion exists in our opinion and that we are unable to remove it under present conditions.

Mr. Humburg: The situation is a rather unsatisfactory one?

Mr. Hatch: Quite so. It is contrary to the accepted methods of passenger fare-making in all my experience, which usually have been made on the aggregate of intermediate fares, recognizing all of the state fares.

Mr. Humburg: The measure of the interstate fare between St. Louis and points in Illinois is in your judgment a fair measure as it stands, 2½ cents?

Mr. Hatch: Yes.

Mr. Humburg: And it is your view, is it, that the situation if found to be unjustly discriminatory should be remedied by——

Mr. Hatch (interrupting): An advance of the state fares of Illinois. That is the only remedy that would be acceptable.

Mr. Humburg: That is all, unless you have something further.

Mr. Hatch: No, sir.
Examiner Gutheim: Any cross-examination?

Cross-examination:

Mr. Thorne: What is the average revenue per passenger mile so far as the Illinois portion of the haul is concerned to Portland, Oregon, from Springfield, Illinois?

1733 Mr. Hatch: I do not know.

Mr. Thorne: Something less than a cent a mile, or around there, or has been this summer, has it not?

Mr. Hatch: Is it?

Mr. Thorne: Does that constitute a discrimination in your judgment?

Mr. Hatch: A discrimination as against what?

Mr. Thorne: The interstate traffic that is paying 2 cents.

Mr. Hatch: I hardly think so.

Mr. Thorne: Do you know of any travel that you have lost, any individual that did not make the trip to St. Louis because of these rates? The loss to which you referred is in the amount of money received rather than in the number of passengers that traveled, is it not?

Mr. Hatch: I am rather of the opinion that so far as the number of passengers caried is concerned that the Illinois Central is gaining by the present arrangement. We are a north and south line in Illinois and are crossed by all of the east and west lines between Chicago and Cairo. The southern portion of Illinois is more particularly the St. Louis territory. Our lines in southern Illinois—our train service is arranged to accommodate St. Louis traffic rather than Chicago.

1734 I should say that the lines crossing us, east and west lines, are suffering the loss that you are referring to, and the rate cannot have helped those passengers to Chicago where the distance is the same.

Mr. Thorne: As far as your road is concerned you know of no loss?

Mr. Hatch: I have no specific instance.

Mr. Thorne: That is all.

Examiner Gutheim: Anything else?

Redirect examination:

Mr. Humburg: You mean by that, Mr. Hatch, that the statistics that have been introduced of the change in the number of passengers on the various roads greater in number traveling to or from East St. Louis than to or from St. Louis, as stated in those exhibits for the several roads?

Mr. Hatch: Yes.

Mr. Humburg: And will indicate the difference in the number of persons traveling?

Mr. Hatch: Yes, sir.

Mr. Humburg: And notwithstanding that might be a temporary

gain, as you indicate, in the number of passengers by reason of the manner in which the Illinois Central operates, do you consider it a fair and a just arrangement?

Mr. Hatch: No; we are of course suffering a loss that we
1735 might get on our interstate by getting the full measure of our interstate fares.

Mr. Humburg: And the gain you had in mind was the gain on intrastate traffic and not the gain on interstate traffic?

Mr. Hatch: Entirely intrastate.

Mr. Humburg: As to the number of passengers that you would carry at the lower intrastate fare, that otherwise would be interstate business coming over into St. Louis?

Mr. Hatch: Yes, sir.

Mr. Humburg: That is all.

Recross-examination:

Mr. Thorne: There are just as many interstate passengers under this arrangement, are there not, as there would be in the other case except that the interstate passenger travel is a shorter distance, it being from the river instead of all the way to Chicago, for instance?

Mr. Hatch: Do I understand from that that you mean that the passenger destined to St. Louis who buys to East St. Louis and rebuys is an intrastate passenger or an interstate?

Mr. Thorne: My question relates simply to this: is it your belief that this arrangement has reduced the number of persons going to St. Louis to any substantial extent?

1736 Mr. Hatch: I am confident of it.

Mr. Thorne: Where has it done that? Can you show any illustration of that sort?

Mr. Hatch: That is an expression of opinion.

Mr. Thorne: You have no evidence to give us on that subject?

Mr. Hatch: Except as shown in the exhibits of Mr. Lanigan.

Mr. Thorne: Now as to that charge for crossing the river at St. Louis, is it your idea that that is a reasonable charge for that service?

Mr. Hatch: Yes.

Mr. Thorne: That is all.

Mr. Slater: Mr. Hatch, what proportion of your total revenue accrues from the sale of mileage books?

Mr. Hatch: Over the entire system?

Mr. Slater: Yes, sir.

Mr. Hatch: My recollection is about 8 per cent. I could give you that easily, but my recollection is about 8 per cent. It is smaller on our Northern lines than in the South.

Mr. Slater: Will you refer, please, to Mr. Lanigan's Exhibit Number 11 and indicate in the record the states in which you sell mileage books at 2 cents a mile.

1737 Mr. Hatch: We have an interchangeable mileage book at 2 cents per mile in all of our Southern states. Do you want me to call off the states?

Mr. Slater: Read the states in there, please.

Mr. Hatch: If I am not mistaken it is all the states we touch we have 2-cent mileage. We sell a mileage book at 2 cents that is good over our entire system. That covers every state.

Mr. Slater: It covers every state shown in Lanigan's Exhibit Number 11 through which the Illinois Central runs or operates?

Mr. Hatch: Illinois—do you want me to call those states?

Examiner Gutheim: You do not have to call them if that is sufficient. Is your answer yes to that?

Mr. Hatch: Yes, sir.

Examiner Gutheim: Anything else?

Mr. Bryan: I would like to ask one question.

Mr. Hatch, is the cost to the Illinois Central of its terminal service across the river any greater now than it was prior to December, 1914?

Mr. Hatch: Practically no change.

1738 Mr. Bryan: The Illinois Central operates into St. Louis over the Terminal Railroad Association and pays its share for the operation to the Terminal Railroad Association?

Mr. Hatch: Yes, sir.

Examiner Gutheim: Is that all?

Mr. Humburg: That is all.

(Witness excused.)

* * * * * * *

1739 Cross-examination:

Mr. Bryan: Is there any reason for the discrimination in the rates between St. Louis and Illinois points and the rates betwewen Chicago and Illinois points?

Mr. Charlton: None other than I have stated, the difference between the rate of 2 cents within the state and the rate of 2½ cents which applies on interstate, St. Louis being in the very unfortunate position of a border city and gets probably the worst of it.

1740 Mr. Bryan: In other words, that is due merely to that law?

Mr. Charlton: Entirely to that law.

Mr. Bryan: And not due to the expense of service?

Mr. Charlton: No, sir.

Mr. Bryan: Or returns, or anything of that kind?

Mr. Charlton: No, sir.

Mr. Bryan: Has the Chicago & Alton station any other St. Louis or Illinois line using it in Chicago?

Mr. Charlton: No, sir.

Mr. Bryan: How is it with respect to the other lines between St. Louis and Chicago, have they separate stations in Chicago?

Mr. Charlton: The Eastern Illinois and the Wabash Railroad occupy the same station, the Dearborn Street station; the Illinois Central and the Alton have separate stations from all other lines.

Mr. Bryan: Is the cost of the St. Louis Terminal Railroad service any greater now than it was prior to December, 1914?

Mr. Charlton: The cost of the St. Louis Terminal service, like the cost of all terminal service, is increasing right along.

Mr. Bryan: I mean the cost to the Chicago & Alton Road.

Mr. Charlton: Are you talking relatively or specifically?

Mr. Bryan: I am talking relatively.

1741 Mr. Charlton: The cost to the Chicago & Alton Road is increasing every month and every year, and to every other road that uses the station, because the costs of the station are increasing every month.

Examiner Gutheim: That is the absolute cost?

Mr. Charlton: Yes, sir.

Examiner Gutheim: Now take the relative cost as between St. Louis and Chicago.

Mr. Charlton: The relative cost operating here in St. Louis as against Chicago is not materially different. The same units enter into the cost of operating each terminal with the exception of the bridge charge here, which does not apply in Chicago.

Redirect examination:

Mr. Humburg: At Chicago you have on the other hand certain other facilities different from the bridge, such as elevated structures and others?

Mr. Charlton: Yes; and we are going to have a Union station there that is going to cost fifty million or sixty million dollars that will make us sit up a year or two.

Examiner Gutheim: Cross-examination by the interveners.

Mr. Mullen, have you anything?

Recross-examination:

Mr. Mullen: Has there been any improvement, Mr. Charl-
1742 ton, in the character of your train service in the last ten years?

Mr. Charlton: Yes, sir; very material.

Mr. Mullen: You have a red train, the Alton Limited, is it?

Mr. Charlton: Yes.

Mr. Mullen: That has been in service ten years, has it not?

Mr. Charlton: Not the same train; that is, we have had new equipment through the entire train in ten years.

Mr. Mullen: But it is the same character of equipment?

Mr. Charlton: Very much better.

Mr. Mullen: Than ten years ago?

Mr. Charlton: Than the previous train, yes.

Mr. Mullen: More costly?

Mr. Charlton: More costly.

Mr. Mullen: In connection with the increases that have taken place on the various matters you have testified, has there also been an increase in the volume of passenger travel?

Mr. Charlton: Yes, sir.

Mr. Mullen: And that in spite of the competition of the interurban roads and the automobiles?

Mr. Charlton: There has been an increase in the volume of passenger travel; there has been an increase in the competition of steam

roads for it; there has been the automobile and the traction
1743 line service. Perhaps the Chicago & Alton Railroad from Chicago to St. Louis suffers to a greater extent than any other railroad within the state from traction line and automobile travel.

We are paralleled between Chicago and Joliet, absolutely paralleled, right along the line of our own track, 37 miles between Dwight and Pontiac, a distance of 17 miles.

We are paralleled between Lincoln and Springfield, a distance of approximately 30 miles.

We are paralleled between Springfield and Carlinville, a distance of approximately 30 miles.

We are paralleled, but not directly, but in competition for every bit of local travel we have between Springfield and St. Louis, between St. Louis and Jerseyville.

The only places where we have no traction line competition is for a distance of about 20 miles between Lincoln and Bloomington, a distance of 37 miles between Bloomington and Pontiac and 36 miles between Dwight and Joliet.

The right of way has been purchased and is graded and fixed as to culverts and bridges for a very large portion of that territory I have mentioned in which we are not paralleled. That is, it has been purchased, it is owned and it is ready to lay the rails for the
1744 traction line.

In the last 15 years I have seen the passenger revenue of the Alton Road decrease in connection with its local travel within 25 and 50-mile zones from 60 to 40 per cent of the whole. In other words, the Alton Road in the state of Illinois earns 60 per cent on its long distance travel and its through travel, where it formerly earned only 40 per cent, and its local travel within the 25 and 50-mile zones earned 60 per cent. The situation has been reversed and has been brought about largely by electric lines and automobiles. If you ride the day trains of the Alton Road, as I do, and as you probably have done, Mr. Mullen, you will notice the extent to which were paralleled by electric line and automobile service. Even our own men are using automobiles in soliciting freight and passenger business because they can use them to better advantage.

Mr. Mullen: What can you do to meet that competition of interurban lines?

Mr. Charlton: We make the same rates as the interurban lines, but on the short distance travel that does not help us.

I think in a little while, at least I have every hope, and I believe I am right, that the automobiles will drive the electric lines out of business, and then we will only have one competitor in Mis-
1745 souri.

We have a jitney service between various points that has been in effect for a year and still continuing that has reduced our rates locally in the territory 55 per cent on 25-mile zone travel.

Mr. Mullen: If you now meet that competition by reducing the rates which the law of Illinois permits you to charge what would be the effect of increasing them?

Mr. Charlton: We are not bothered by the effect. We will take

the increase. We do not believe we will lose anything on this short distance travel that we are not now losing. Absolutely, Mr. Mullen, it has left us.

Take a little station like Chatham, which used to earn us in passenger business $5,000. or $6,000. a year, it does not earn us $200. a year today.

Mr. Mullen: Does it not make a difference in that competition whether you charge a higher or lower rate on your own trains?

Mr. Charlton: Apparently not. We have a morning, noon and night train from Chatham.

Mr. Mullen: Why, have you charged a lower rate to meet the competition?

Mr. Charlton: We do not charge lower; we charge 2 cents
1746 per mile.

Mr. Mullen: What is the distance between Springfield and St. Louis?

Mr. Charlton: Approximately 100 miles; 98 miles.

Mr. Mullen: What is your single fare for that distance?

Mr. Charlton: $2.70.

Mr. Mullen: What is your round-trip fare?

Mr. Charlton: I do not just recall; I think that is 10 per cent off double local.

Mr. Mullen: Is it not $3.10 per round-trip ticket?

Mr. Charlton: That might be; I am not quite sure about it.

Mr. Mullen: Between St. Louis and Springfield?

Mr. Charlton: Between St. Louis and Springfield we make round-trip rates pretty close to those of the traction line. That is the only place we do it.

Mr. Mullen: That is for the purpose of meeting that competition?

Mr. Charlton: That is the only place we do it.

Mr. Mullen: That is for the purpose of meeting that competition?

Mr. Charlton: That is for the purpose of meeting that competition. That is a very heavy business in there. We have lost
1747 about 25 per cent of it. I think that business is worth to us now when I figured it last $210,000. and we used to get nearly $200,000. out of it before the traction line broke in.

Mr. Mullen: The Illinois Central makes the same rate you do?

Mr. Charlton: No, sir; Mr. Hatch will correct me if I am wrong; they do not meet the traction line competition.

Mr. Mullen: Is that correct, Mr. Hatch?

Mr. Hatch: Not as a general practice. We have in some places where our steam road friends meet it, we meet them. But as a general practice we do not make any attempt to meet the traction line.

Mr. Mullen: What is the practice as between St. Louis and Springfield?

Mr. Hatch: We have recently put in the same rates as the Alton, whatever they may be, on account of their action, not on account of the traction.

Mr. Charlton: I did not know that.

Mr. Hatch: At least, I assume they are in.

Mr. Mullen: How long has that been in effect on your line, Mr. Charlton?

Mr. Charlton: What is that?

Mr. Mullen: The $3.10 round-trip between Springfield and
1748 St. Louis.

Mr. Charlton: Well, over a year anyway. I could not tell you that. If it is material I can furnish the tariff and the dates.

Mr. Slater: Do you add 25 cents bridge toll to all of your fares between Illinois points and St. Louis to the East St. Louis rate?

Mr. Charlton: Where we make the fare ourselves we do; where we have to meet the competition of any other line we make whatever rate they make.

Mr. Slater: Where you do it, why do you do it?

Mr. Charlton: Twenty-five cents?

Mr. Slater: Yes. What service does that cover?

Mr. Charlton: That ought to be 35 cents. Our trains as a rule to St. Louis, some of them go through East St. Louis and some of them through Madison; it just depends on the territory. 25 cents to East St. Louis in some cases, 35 to Granite City in others, where we can control the situation ourselves and do not have to meet the short-line rates of other roads.

Mr. Slater: Is that due to the bridge service?

Mr. Charlton: The 35 cents is supposed to represent the local rate between Granite City and the Union station and is a bridge
1749 charge.

Mr. Slater: And is that added to all fares regardless of the distance, 100 miles, 200 or 300 miles?

Mr. Charlton: As a general thing, yes.

Mr. Slater: That is all.

Redirect examination:

Mr. Humburg: The meeting of the interurban fares cannot properly be considered to be the making of a voluntary rate on your part?

Mr. Charlton: No, sir.

Mr. Humburg: If you did not meet that fare what would be the result as to the carrying or not carrying by your road of certain passengers?

Mr. Charlton: On short distances within 25 or 35 miles we would not meet any particular reduction of the interurban fares, but on distances of 75 miles or more, where we believe the steam roads have some advantage on account of the quicker speed of the train, we meet those rates, and if we did not meet them we believe we would lose the traffic.

Mr. Humburg: That is the only reason why you meet them?

Mr. Charlton: Yes, sir.

Mr. Humburg: Is there any difference in the convenience
1750 or the safety of the kind of trains that you furnish for passenger travel interstate from St. Louis to points in Illinois versus intrastate from Chicago to points in Illinois?

Mr. Charlton: No, sir; as a general rule all our equipment and train service is about the same whether applied to local or through trains.

Mr. Humburg: Is it not true that these trains are of the same nature?

Mr. Charlton: Yes, sir.

Mr. Humburg: They are companion trains?

Mr. Charlton: Yes, sir.

Mr. Humburg: Number 1 going north and Number 2 going south is really the same equipment?

Mr. Charlton: Yes, sir; there is no difference in equipment between trains going into and out of Chicago and into and out of St. Louis.

Mr. Humburg: And the through trains serve both intrastate as well as interstate passengers?

Mr. Charlton: Yes, sir.

Mr. Humburg: Have you had means of observing the same condition of diverting interstate traffic to intrastate traffic that has been testified to here by other witnesses at East St. Louis?

1751 Mr. Charlton: Yes, sir.

Mr. Humburg: That is all.

Recross-examination.

Mr. Mullen: Mr. Charlton, what is the most luxuriant train?

Mr. Charlton: They are all so luxuriant I could not tell you.

Mr. Mullen: Have you never noticed any difference?

Mr. Charlton: Between you and me, and not for publication, we advertise the Alton Limited as the handsomest train in the world, and it is a very handsome train. You can take my word for that. As to the conditions inside the cars, they are just as good in the black cars as the red cars.

Mr. Mullen: In what respect is the chief difference?

Mr. Charlton: A little red paint.

Mr. Mullen: You do not advertise that fact, do you?

Mr. Charlton: No; I just said that was between you and me.

Mr. Mullen: You have a train that leaves Springfield about 4:10 in the afternoon bound for Chicago?

Mr. Charlton: Yes, sir.

Mr. Mullen: Is that of the same character as the Alton Limited except for the paint?

Mr. Charlton: Except for the paint. It has the same cars,

1752 built at the same time, and cost the same money.

Mr. Mullen: Do you have chair cars on that train?

Mr. Charlton: We have chair cars on that train, but I think you are referring to parlor cars. We have no parlor cars.

Mr. Mullen: You have no parlor cars?

Mr. Charlton: Not on that train.

Mr. Mullen: The other cars are of the same character as on the Alton Limited?

Mr. Charlton: Yes, Mr. Mullen, they were built at the same time.

Mr. Mullen: Is that the cheapest train you have on your line of road, the 4:10 to Chicago, in point of equipment?

Mr. Charlton: In point of equipment all our trains local and otherwise are practically the same kind of service as the passenger coaches; some of them are coaches with coach backs and others are reclining chairs, but they are all the same character of car. We have no what you would call cheap cars.

Mr. Mullen: And they cost you uniformly the same price?

Mr. Charlton: About the same amount of money, yes, sir.

Mr. Mullen: What about the local train that leaves Roodhouse about 5:10 in the morning that recently was put on your service?

1753 Mr. Charlton: We have no such train.

Mr. Mullen: Well, somewhere about that hour, 6:10, possible.

Mr. Charlton: We have not any train that leaves Roodhouse much before 7 o'clock in the morning, but if you will specify where it is going to—there are two or three trains leaving Roodhouse about 7 in the morning—I will be glad to tell you what it is.

Mr. Mullen: You have a train that leaves Roodhouse about that time?

Mr. Charlton: Yes, sir.

Mr. Mullen: What is the character of that train?

Mr. Charlton: About the same as others, composed of 200-Class coaches that cost us in the neighborhood of $8,000. apiece when built and they have all been built within the last ten years.

Examiner Gutheim: Is there anything else?

Mr. Bryan: Just one question.

Mr. Charlton, traveling on the Alton Limited between Chicago and 150 miles out of Chicago in Illinois is cheaper than traveling on the Alton Liimted between St. Louis and 150 miles out of St. Louis into Illinois, is it not?

Mr. Charlton: For the reason that one is a state trip and the other is an interstate trip, and it is cheaper by something over a dollar.

1754 Mr. Bryan: And the service is the same?

Mr. Charlton: Exactly the same; the same train.

Mr. Bryan: That is all.

Examiner Gutheim: Is there anything else of this witness?

Mr. Humburg: That is all.

(Witness excused.)

* * * * * * *

1755 Cross-examination:

Mr. Mullen: Who prepared Exhibit Number 1?

Mr. Westerman: This was prepared by Mr. A. H. Plant, comptroller.

Mr. Mullen: You had nothing to do with it yourself?

Mr. Westerman: No.

Mr. Mullen: And you do not know anything about it as to its correctness?

Mr. Westerman: I can only express the opinion that it is correct.

Mr. Mullen: But you do not know?

Mr. Westerman: No.

Mr. Mullen: Who prepared the argument that you made on your direct examination?

Mr. Westerman: It was prepared by myself, the principal points, and elaborated somewhat on advice of counsel.

Mr. Mullen: You submitted it to counsel before you were examined, did you?

Mr. Westerman: Yes.

1756 Mr. Mullen: And after it was completed you submitted it?

Mr. Westerman: No.

Mr. Mullen: It was submitted to counsel, was it?

Mr. Westerman: Yes.

Mr. Mullen: At what time?

Mr. Westerman: It was submitted to counsel yesterday and further elaborated by me today.

Mr. Mullen: And again submitted to counsel?

Mr. Westerman: No.

Mr. Mullen: What is the source of the figures that you have stated in that answer?

Mr. Westerman: What is the source of what?

Mr. Mullen: What is the source of your information as to the figures stated in that answer?

Mr. Westerman: In which answer?

Mr. Mullen: The one that you gave on direct examination reading from some document before you?

Examiner Gutheim: You mean as to the automobiles?

Mr. Mullen: Yes; as to all the data you testified to on direct examination.

Mr. Westerman: In so far as the information relating to expenditures is concerned, that was furnished to me by our account-

1757 ing department at Washington and by the general superintendent of the Southern Railway at St. Louis. In connection with the automobiles that was furnished to me by our agents and the statement prepared by myself.

Mr. Mullen: Have you any personal knowledge as to the correctness of those figures?

Mr. Westerman: Only as coming from our agents in accordance with the request made that we be furnished that information, and that information being furnished by the agents it was compiled and the statement made which I have submitted here.

Mr. Mullen: Do you sell 2-cent mileage books throughout your line?

Mr. Westerman: Yes.

Mr. Mullen: In all the states in which you testify the normal rate is 2½ cents per mile or higher?

Mr. Westerman: Yes, sir.

Mr. Mullen: On what terms are those sold?
Mr. Westerman: $20. and $40.; 2 cents per mile.
Mr. Mullen: That is for 1,000 and 2,000 miles?
Mr. Westerman: 1,000 and 2,000-mile books.
Mr. Kane: Do you consider the passenger fare in Illinois should be as high as the passenger fare in Alabama, Tennessee and
1758 Mississippi?
Mr. Westerman: Intrastate in Illinois?
Mr. Kane: Yes; locally in Illinois.
Mr. Westerman: I consider that the passenger fare should be 2½ cents a mile.
Mr. Kane: I am asking you if you think the travel in Alabama, Tennessee or Mississippi is such as to justify as low a rate as in the state of Illinois, the density of population, the amount of travel?
Mr. Westerman: I still say that I think the fare should be 2½ cents per mile in the state of Illinois.
Mr. Kane: Then do you think there is as much travel in those Southern states as there is in the state of Illinois?
Mr. Westerman: It may be; I have not any specific knowledge on that subject.
Mr. Kane: From your wide experience on the Southern Railway traversing these several states, what has been your observation?
Mr. Westerman: I would say that the travel in those states on the Southern Railway exceeds the travel in the state of Illinois on the Southern Railway.
Mr. Ropiequet: Mr. Westerman, in taking these automobiles, do you take East St. Louis?
1759 Mr. Westerman: Yes.
Mr. Ropiequet: And Belleville?
Mr. Westerman: Yes.
Mr. Ropiequet: Mount Vernon?
Mr. Westerman: Yes.
Mr. Ropiequet: And Fairfield?
Mr. Westerman: Yes.
Mr. Ropiequet: There are lots of other lines serving those same places, are there not?
Mr. Westerman: Yes. Not lots of others, but there are other lines.
Mr. Ropiequet: Quite a number of them. I notice this is from 1913 to 1915.
Mr. Westerman: Yes.
Mr. Ropiequet: On your traffic to St. Louis and from St. Louis and from East St. Louis east of Centralia is it not a fact that a good percentage of your passengers for several years back have been buying tickets to Belleville and take the electric line to St. Louis from there?
Mr. Westerman: Not to my knowledge.
Mr. Ropiequet: This does not reflect the advance in 1914 here, then, from East St. Louis?
1760 Mr. Westerman: Well, I will explain that by saying that in the year 1914 our passenger fares were advanced on May

1st, 1914. Prior to that time they were made on the basis of 25 cents higher than the intrastate fare from East St. Louis. In order to have a fair comparison I went back farther than that and took the year 1913 and the year 1915, where the fares were on a parity.

Mr. Ropiequet: 1913 was farther back than the time of this advance?

Mr. Westerman: Yes; I wanted to have 12 months where the conditions were the same.

Mr. Ropiequet: That is all.

(Witness excused.)

* * * * * * *

1760½ DEFENDANT'S EXHIBIT 4-A.

In the District Court of the United States, Northern District of Illinois, Eastern Division.

No. 753. Consolidated Cases.

ILLINOIS CENTRAL RAILROAD COMPANY, Plaintiff,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Defendants.

Defendants' Exhibit 4-A, Being an Abstract of Defendants' Exhibits 3 and 4 (the Same Being the Abstract Thereof Prepared and Presented to the Interstate Commerce Commission and as Contained in the Briefs Submitted to Said Commission. The Arguments Submitted to the Interstate Commerce Commission are Not Embraced Herein).

February 8, 1917.

1761 Before the Interstate Commerce Commission.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS, a Corporation, Complainant.

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al., Defendants.

Statement, Abstract and Argument for Complainant.

Stewart, Bryan & Williams, S. H. West, Attorneys, and P. W. Coyle, Traffic Commissioner, A. F. Versen, Assistant Traffic Commissioner, for Complainant.

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1766 *Abstract of Evidence for Complainant.*

Freight Rates.

P. W. COYLE, traffic commissioner of the complainant (p. 14) for ten years. It was his duty to observe conditions with reference to freight and passenger rates and guard the commercial interests of St. Louis with respect to rates and transportation facilities. Has been in his position ten years. Prior to that time he had been in the railroad service since 1865, working up through the traffic department (p. 15). The Business Men's League has about 2,400 members, representing all classes of business and professional men, men engaged in shipping and receiving freight, and traveling, and that approximately 75 per cent of the tonnage of St. Louis is handled by the members of the League (p. 16). The readjustment before the increase in interstate rates and fares was the result of a conference between a municipal commission of St. Louis and the carriers terminating in 1906. The territory east of the Mississippi River and north of the Ohio and Potomac rivers known as the Official Classification Territory is subdivided into New England, Trunk Line Territory, Central Freight Association and Illinois Territory, within its boundaries (p. 17).

1767 The rates in the several subdivisions form the basis of local conditions. A scale of rates applies between the Illinois points and points east of the Illinois-Indiana line to what is known as the Western Termini a line running through Buffalo, Erie, Pittsburgh, to Wheeling, known as Central Freight territory, and applies on traffic handled between Illinois and points in that territory (p. 18). Another scale known as the Trunk Line scale applies between all points east of the Western Termini points and points west thereof to the Mississippi River, including, since 1907, St. Louis. The rate between Chicago and New York is the unit of these rates and the territory west of the western termini is divided into groups practically on a mileage basis and each one of these groups takes a certain percentage above or below the unit rate or the 100 per cent points (p. 18). A municipal commission appointed by the City of St. Louis negotiated with the carriers entering St. Louis from the East and obtained the application of that trunk line scale to St. Louis upon the basis of 117 per cent. Previous to that the basis was 116 per cent which applied only to East St. Louis and East St. Louis territory. The rates to St. Louis were made by plusing those rates (p. 19). That adjustment had nothing to do with the rates in Illinois, because the adjustment of rates between St. Louis and Illinois points stands upon its own merits and should be considered and dealt with the

1768 same as rates applicable within those subdivisions of the official classification territory, bringing it down to a question simply of relationship between points which may be really considered in Illinois (p. 20). St. Louis is in the 117 per cent group applicable upon traffic handled between the points mentioned and St. Louis. That is, St. Louis takes 117 per cent of the unit New York to Chicago

rate. The Illinois rates are not based upon that scale (p. 20). Previous to 1906 all of the rates between St. Louis and all points east of the Mississippi River were made upon the East St. Louis basis plus whatever it might cost, or whatever the shipper was charged, for crossing the river by the several transfer and transportation lines. There were as many schedules of rates as there were parties engaged in handling the traffic and there was no uniform classification, so that rates varied almost with every shipment (p. 20). The rates ran from 2 cents to 10 cents per hundred pounds, less carloads, and half a cent to 2 and 2½ cents on carloads (p. 21). The municipality of St. Louis passed an ordinance in 1905 establishing a commission to deal with the carriers with a view of establishing rates to and from St. Louis direct, known as the Municipal Bridge and Terminals Commission, which held numerous sessions with the executive officers of carriers, and in 1905 the carriers agreed to establish rates to and from St. Louis direct to all points east of the Mississippi River, including the official classification territory (p. 21). Negotia-
1769 tions continued, and on April 19, 1907, the carriers agreed to establish rates to and from St. Louis, Missouri, the same as to and from East St. Louis and all points east outside of the 100-mile radius from St. Louis (p. 22). These tariffs went into effect east bound September 1, 1907, and west bound January 2, 1908. Within the 100-mile zone the carriers established rates based upon the Illinois distance tariff scale from St. Louis, starting with an arbitrary of 3, 3, 3, 2, 2, 1½, etc., along down. The arbitrary scale was made to fit the Illinois classification and started west and worked east up to where the St. Louis and East St. Louis rates met (p. 22). These arbitraries were in excess of the rates applied from East St. Louis within the 100-mile radius. In some cases it will not be an arbitrary all the way through, but will gradually shrink as it comes close to the point where the two rates (St. Louis and East St. Louis) meet. Where the St. Louis and East St. Louis rates meet it is on the basis of through rates from St. Louis and not upon the basis of East St. Louis plus (p. 23). The Municipal Bridge and Terminal Commission made a number of reports to the City Council of St. Louis (p. 24) and in the fourth report, dated St. Louis, May 24, 1907, page 3, etc., is said: "These negotiations resulted in a meeting on April 19th, 1907, between the executive traffic officers of the Eastern railroads and the Municipal Bridge and Terminals Commission, at which arrangements were made to do away entirely with the
1770 remaining differentials on business between St. Louis and the points beyond the 100-mile radius and to publish one set of rates between the St. Louis district, including St. Louis, East St. Louis, Madison, Venice, Granite City and Eastern points."

Mr. Bryan: Has that been the case ever since up until this advance in the interstate rates last October?

Mr. Coyle: Yes, sir. The Commission in concluding its labors made this report. The Commission feels, therefore——

Mr. Bryan: What report is that, Mr. Coyle?

Mr. Coyle: This is report No. 5, dated February 11th, 1908.

Mr. Barlow: Mr. Coyle, when you refer to the Commission, you mean the St. Louis Municipal Commission?

Mr. Coyle: Yes, sir.

Mr. Barlow: Always?

Mr. Coyle: Yes, sir; always.

Mr. Bryan: Unless otherwise designated.

Mr. Coyle: This is at page 4 of report No. 5, dated February 11th, 1908.

The Commission had many conferences covering a period of two years (p. 26), with all of the carriers serving St. Louis through the East Side, including the parties defendant in this case (p. 27). The adjustment arrived at after all these conferences between the Municipal Bridge and Terminal Commission and the carriers'
1771 representatives remained in force from 1907 up to the advance in the interstate rates in the fall of 1914 (p. 27). When the advance was made in the interstate rates in the fall of 1914 the complainant, through the witness, took up the subject with the defendant carriers, pleading for a restoration of the rates which were in effect previous to the said advance because of the discrimination that was caused by the action of the Illinois Commission. The carriers contended that they were authorized and justified in making the advance in the interstate rates in Illinois because the Interstate Commerce Commission had given them general authority so to do in the Eastern Advance case (p. 28). Witness quoted from a letter addressed to all the carriers protesting against the unjust discrimination on account of their being no increase in the Illinois State rates at the time the increase was made in the interstate rates (p. 30). Witness read from the petition of the carriers for rehearing in the Five-Per-Cent Advance case as follows:

"Your petitioners state that the advances which were sought in 1910 were principally in the so-called class rates, which advances were objected to by shippers upon the ground that such advances as were then proposed in long-established rates would seriously disturb the existing relations between classes of traffic and between communities. While this commission found it unnecessary to deter-
1772 mine whether the proper articles of commerce had been selected to bear the advances, having determined that the carriers were not at that time entitled to secure additional revenue through increases in rates, your petitioners now submit that if an increase in freight rates is permitted the methods of making it which would work the least disturbance of existing relations between classes of traffic and between communities would be that of the same percentage increase in all freight rates, subject to such modifications as may be required to preserve the necessary differential relation."

This was a petition by 35 or more carriers in the eastern rate case (p. 32). The Commission authorized the carriers to file their tariffs after the petition was presented (p. 32). From statistics of tonnage made by the Merchants Exchange of St. Louis in its annual report of 1914 the east-side lines handled in 1914 21,021,120 tons freight received and 13,075,053 tons freight forwarded, or a total of

34,096,173, which includes soft coal not involved in this proceeding (p. 33). Soft coal comes from points in Illinois, so it would be fair to deduct the whole amount in making an approximate estimate of what might be considered St. Louis-Illinois traffic (p. 33). From his experience and observation he would say that from three million to five million tons annually would be the actual movement of tonnage between St. Louis and Illinois points (pp. 33-34). In
1773 1910 the population of St. Louis was 689,029, East St. Louis 58,547, Granite City, 9,903, Madison 5,046, or a total on the East Side of 73,496 and a grand total in the St. Louis District of 762,525. There are a number of industries on the East Side similar to those on the West Side and are in competition with the St. Louis industries, and there is a substantial competition between Chicago and St. Louis for Illinois territory (p. 34). St. Louis has a large trade east of the Mississippi River in all of the Illinois territory, which means any place this side of Chicago (p. 35). Witness stated that since his knowledge of traffic conditions in this part of the country it has always been the practice of the carriers to keep St. Louis and Chicago on a parity in the handling of traffic to and from Illinois points. It was not done so specifically previous to 1906 because it was difficult for the traffic managers to do so unless they found ways of doing it by absorption of switching and transfers across the river. So that the arrangement made between the carriers and the Municipal Bridge and Terminal Commission was simply crystallizing the practice which had been in vogue ever since he knew anything about the traffic (p. 35); that is with respect to competitive points in Illinois, St. Louis versus Chicago; and St. Louis within all that time had been considered substantially within the State of Illinois so far as the treatment extended by the railroads to
1774 St. Louis shipping community, and there has not been any change in the circumstances and conditions between the interstate transportation and the transportation within the State of Illinois which did not exist prior to the change in the interstate rates in 1914 (p. 36). The change in the relation between the interstate and the intrastate rates in Illinois has been damaging to the business of St. Louis and its people. St. Louis is in competition with Chicago and other cities in Illinois, and when the St. Louis shippers who have been doing business in Illinois all these years on an equitable basis are now obliged to pay 5 per cent more to reach the same territory than our competitors do then, naturally, the interstate increase is a burden upon the shipping of St. Louis (p. 36).

Cross-examination:

The membership of the complainant represents seventy-five per cent of the volume of traffic shipped to and from St. Louis (p. 38). Most of the shippers at one time or another undoubtedly do business in Illinois (p. 38). The same classification of freight is applicable to the transportation between points in Illinois and St. Louis as is applicable to intrastate traffic (p. 39). The Illinois classification applies. The parity contended for existed from 1907 up to October

26, 1914 (p. 39). The disparity complained of is in general the five per cent increase in the interstate rate (p. 40). Generally
1775 speaking, the same measure of the rate applies from St. Louis to Illinois as applies from Illinois to St. Louis and it is a relationship that is applicable between them (p. 41). The rates on coal were advanced from points in Illinois to St. Louis within the last year (p. 42). If the Illinois intrastate rates were advanced five per cent as the carriers are seeking to advance them intrastate in Illinois, which would carry that advance to East St. Louis, that would remove the cause of the complaint with respect to the discrimination (p. 42), and would restore the relationship that existed prior to October 26, 1914 (p. 43). In the proceeding before the interstate commerce commission in the five per cent case tariffs naming interstate rates between St. Louis and points in Illinois were embraced and in that proceeding were suspended and after a hearing an order vacating their suspension permitted them to become effective and they went into effect October 26, 1914, in pursuance of the vacating order (p. 43). Shippers in St. Louis do business in Illinois and there meet the competition of Illinois shippers, particularly the competition of Chicago (p. 44). St. Louis seeks to do business in Illinois and it ships upon a basis of rates gauged by distance or otherwise, which is higher than is the rate that is paid by its competitors in Chicago (p. 44). It is this spread or difference in the rates which exists at the present time that is hurting St.
1776 Louis shippers and which they complain of (p. 47). The rates from St. Louis to points within 100-mile radius have been advanced (p. 50). It was not a part of the agreement between the railroads and the municipal terminal commission that rates from St. Louis to points within the 100-mile radius should be 3, 3, 3, etc., above the East St. Louis rate (p. 50). The rates are made through and the rates themselves do not show a division of the rate any more within the 100-mile zone than without. They are made as a bulk rate and it figures out that the difference between the rate from St. Louis to a given point within the 100-mile radius is more than the three cents difference which existed before. There is a difference in some cases of four cents between the rate from East St. Louis and St. Louis to that given point and we do not know how that rate is divided so far as crossing the river (p. 51).

Mr. Barlow: I am asking you if the rate from St. Louis to points in Illinois within the 100-mile radius as described by you are published at 3, 3, 3, etc., the arbitraries named by you over and above the rates now in effect from East St. Louis?

Mr. Coyle: They do not publish the rates in that manner. They give us a bulk rate to a point in Illinois, even though it be within the 100-mile radius.

Mr. Barlow: Does that constitute the difference between the East St. Louis rate and the St. Louis rate to points within the 100-mile radius, 3, 3, 3, etc.?

1777 Mr. Bryan: Do you mean at the present time?

Mr. Barlow: At the present time?

Mr. Coyle: To some points that might be the case, but not arbi-

trarily to all points. It is just the same as the difference between any other two points in Illinois, if you please.

Mr. Barlow: Then, I will ask you this question, Mr. Coyle: Do the rates from St. Louis to points within the 100-mile radius described by you now exceed the rates from East St. Louis to a greater amount than they did before the advance in the rate from Illinois points to St. Louis and vice versa?

Mr. Coyle: They do.

Mr. Barlow: Then why, if the agreement of your Terminal Commission was, in substance, that to points within the 100-mile radius your rates should exceed the rates from East St. Louis by substantially 3, 3, 3, etc., as named by you—why has that difference been increased without any increase in the rates from East St. Louis?

Mr. Coyle: I suppose the carriers will tell us why, but we know that it has been done by the fact that we are paying the interstate rate, and East St. Louis is paying the intrastate rates as heretofore.

Mr. Barlow: Then, the carriers have not kept faith with you in that respect?

Mr. Coyle: No, sir.

Mr. Barlow: One more question. You spoke at the beginning of your testimony that this discrimination had been brought about by a failure on the part of the Illinois Public Utilities Commission to permit an advance in the State of Illinois. Did you just mean that or did you mean that the discrimination had been brought about by the railroads advancing the rates to St. Louis?

1778

Mr. Coyle: Both.

Mr. Barlow: Now, when these rates were advanced to St. Louis did you file a protest with the Interstate Commerce Commission?

Mr. Coyle: No, sir.

* * * * * * *

Mr. Barlow: You did not oppose the advance in the interstate rates to St. Louis at that time?

Mr. Coyle: No, sir; not the last (pp. 52-54).

Mr. Barlow: Am I right in interpreting your general testimony, Mr. Coyle, in assuming that if the rates and fares in the State of Illinois are advanced to equal the present interstate rates applying to and from St. Louis your complaint will be satisfied?

Mr. Coyle: Well, what we are seeking is a parity in some manner (p. 56).

Competition between St. Louis and Chicago has always been keen (p. 59). The change in the rate measure for one competitor of that kind without the change in the rate measure of the other competitor will work to the serious disadvantage of the one to whom the change does not occur (pp. 59-60).

1779 Redirect examination:

When he spoke of the differentials within the 100-mile zone about 3, 3, 3, etc., he explained that they tapered off and were not the same ten miles from St. Louis as they were ninety miles from

St. Louis. It was not an arbitrary or not an arbitrary differential. It starts as an arbitrary and after going a certain distance becomes a part of the rate on a different basis (pp. 60-61). When he stated there was eleven miles difference between Granite City and St. Louis and three miles difference between St. Louis and East St. Louis he referred to the difference between the passenger stations (p. 62). There are certain stations in Illinois which are nearer by the railroad to St. Louis than they are to East St. Louis (p. 61). And there are points in St. Louis on the Missouri Pacific and Iron Mountain nearer to points in Illinois than Granite City in Illinois is. He did ask for a suspension of the tariffs increasing the interstate rates five per cent (p. 63). Sent a letter and a telegram to the Interstate Commerce Commission asking for a suspension of these interstate rates to points in Illinois (pp. 64-66). The date of the letter is November 7, 1914 (p. 67). He did not oppose the interstate advance, but after decision and when the carriers filed their tariffs he did ask the suspension of the tariffs until the discrimination could be removed (p. 67).

Never had any conference with the representatives of the
1780 defendant railroad companies in regard to this case (p. 70).

GEORGE A. ROTH, a wholesale grocer in St. Louis, of the Adam Roth Grocery Co., has been in business since 1848. Had occasion to give attention to the transportation facilities. Is familiar with the advance in the interstate rates and that the Illinois intrastate rates remain stationary (p. 78). Does business of shipping to and from Illinois points and is in competition with grocer houses in Illinois points (p. 78). Some of the houses are in Alton, East St. Louis, Litchfield, Painter (Pana), Benton, Centralia, Jacksonville and Springfield, which houses are competitors of his (p. 78). And also in competition with houses in Chicago (p. 79). His company had in many cases to equalize its freight with its competitors (p. 79). The increase in the interstate rate is a substantial proposition with his house. The fact that he has to equalize the freight is a substantial detriment and cuts into his profits to that extent (p. 79). The rate cuts quite a figure when we have to equalize it with competitors in sugar and staple goods like starch and soaps (p. 80). Thirty-five to forty per cent of his trade was in the State of Illinois—between $300,000.00 and $400,000.00 per annum in the State of Illinois (p. 80). He handles all kinds of groceries and feels the competition

more on staple groceries (p. 80). The staple groceries are
1781 sold on a close margin of profits (p. 81). These staples comprise quite a large amount of tonnage as compared with other tonnage (p. 81). The country jobber is not able to carry a full line of goods as the jobbers like Chicago and St. Louis, therefore we have an opportunity of selling them that class of goods they do not handle, but upon staples we have to make a special concession in order to do business by allowing the difference in freight (p. 82). The staple groceries are handled by the country jobbers more than other class of groceries (p. 82). Witness said he could compete in a fair measure with Chicago and the other staples with country jobbers if he did not have this excess freight rate to contend with (p. 83). He

meant the 5 per cent additional interstate freight rate (p. 83). He thinks that the advance of 5 per cent on the Illinois rates would restore the old relationship that existed prior to October 26, 1914 (p. 84). If the rates in Illinois were put up 5 per cent he thinks that would be satisfactory to the wholesale grocers (p. 85). He is not asking that the rates in Illinois be advanced 5 per cent, only asking for the former parity (p. 85). It is true now that he cannot go very far in Illinois on account of the competition of jobbers there, but it was not so much so previous to the advance in interstate rates. He is complaining of the 5 per cent advance in rates from St. Louis to Illinois points and the discrimination as between St. Louis and East St. Louis (p. 87). They have to increase their allow-
1782 ances to equalize freights as to Illinois points (p. 89).

A. F. VERSEN, industrial commissioner and assistant traffic commissioner of the complainant, has been connected with it since 1902, and has handled freight matters from that time, previous to which he was in the commercial office of the Missouri Pacific Railroad Company. His business is to aid in the development of business in St. Louis and to bring in new industries (p. 92). Practically every industry in St. Louis is represented in the Business Men's League (p. 93). There is very keen competition between St. Louis and Chicago and between St. Louis and practically every shipping center within the State of Illinois, in greater or less degree (p. 94). Most of the five per cent advance rates to Illinois points became effective October 26th, 1914. Some tariffs became effective some time in November. Application was made to the I. C. C. requesting the suspension of the advances proposed because of the action of the Illinois Public Utilities Commission suspending the advances proposed on intrastate traffic (p. 94). The Commission declined to suspend the tariffs (p. 95). He prepared a statement showing the comparison of the interstate rates as advanced and the intrastate rates in Illinois—showing the rates from St. Louis and East St. Louis to various points, consisting of twenty-four sheets, and knew that the tables were correct. This statement (Exhibit No. 1) is in Appendix, pp.
1 to 72.
1783 On the sheets in the right-hand column are shown the tariff authority (p. 96). Statement is made with respect to all the railroads operating out of St. Louis to the east. The exhibit shows the class rates of the B. & O. S. W. for the various distances, beginning at Lebanon, 25 miles from St. Louis, and running to Claremont, 125 miles distant, and shows the present class rates from St. Louis, the former rates and, that is to say, the rates in effect prior to the advance of 5 per cent, and the increase in cents per hundred pounds. It also shows the rates from East St. Louis, which are the suspended rates; also the old rates continued in effect, designated as present rates, the present difference in favor of East St. Louis, the former difference in favor of East St. Louis and increase in difference in favor of East St. Louis (p. 97). It also shows the distance scales for the corresponding mileage from St. Louis and East St. Louis. It shows that to points within 100 miles of St. Louis, within the 100-

mile radius, the rates are actually in excess of the combination of locals through East St. Louis. This difference amounts to .8 cents per hundred weight in the first-class rate to Lebanon, 1.2 cents per hundred weight in the first class to Huey and 1.4 cents per hundred pounds to Banister. To Flora, Illinois, the rates are so adjusted that the combination of locals from St. Louis to East St. Louis plus the rate from East St. Louis to Flora will not result in lower
1784 rates than the published through rates, excepting on first-class, where the combination of locals would make a rate of 2/10 of a cent below the present published through rate. Similar statements are in the exhibit for the Chicago & Alton; Chicago, Burlington & Quincy; Chicago & Eastern Illinois; Chicago, Peoria & St. Louis; Cleveland, Cincinnati, Chicago & St. Louis; Illinois Central Railroad, North & South; Louisville & Nashville; Mobile & Ohio; St. Louis, Iron Mountain & Southern; Southern Railway; Toledo, St. Louis & Western; Vandalia Railroad and Wabash Railroad (p. 98). Analysis of the statement discloses conditions on all the railroads in exhibit similar to those existing on the B. & O. S. W. In some instances the present rates from East St. Louis are below the distance scale, due to short line competition and the observance of class A line rates by class B lines. The Illinois Commission issued a classification, containing a scale of distance rates. Also a list of the railroads operating in Illinois, divided into class A and B roads (p. 99). The statements do not show rates from Chicago. The distance scales shown may be used in determining what rates do apply from Chicago to equi-distant points (p. 100). Another exhibit will be filed showing comparative rates from Chicago, and the distance scale is generally observed in making class rates between Chicago and other Illinois points (p. 101). The Terminal Railway Association of St. Louis Tariff I. C. C. No. 98 names three
1785 cents for the first three classes; two cents for classes four and five, and one and one-half cents for classes six to ten, inclusive, between St. Louis and East St. Louis. There are certain commodity rates between those points, but in general the class rate adjustment indicated will show the general adjustment (p. 101).

While the rates from St. Louis to points in Illinois were increased there were no increases in the rates of the Terminal Railroad Association between St. Louis and East St. Louis, so that the entire increase in revenue accrues to the lines for haul up to East St. Louis (p. 102). The statement also shows by reference to page 22 of the exhibit that because of the increase of 5 per cent in the rates between St. Louis and points in Illinois the through rates now charged on interstate traffic are in many instances in excess of the combination of locals. The rates of the Vandalia only are used, but what is true of that line in this respect is also true of the other lines, and it explains the situation a little more clearly (p. 102). The combination of the rates from St. Louis to East St. Louis plus the class rates from East St Louis to Illinois points carried in the tariffs filed with the Interstate Commerce Commission, and also applicable on Illinois intrastate traffic, were used to make up the statement (p. 103). In

explaining the exhibit he took page 1, a rate to Lebanon, 25
1786 miles, and instead of referring to all of the classes, only referred to first-class because the first-class rate was typical. The former rate from St. Louis to Lebanon was 19.5 cents per hundredweight. The rate from East St. Louis was and is now 16.5 per hundredweight, creating a differential of 3 cents, which is the same as the local rate from St. Louis to East St. Louis (p. 104) The rate from St. Louis has been increased from 19.5 to 20.3 cents, creating a difference in favor of East St. Louis of 3.8 cents per hundredweight on first-class. The witness explained at length the showing made by Exhibit 1 and by reason of the increase of 5 per cent in the interstate rate the spread increased in proportion to the distance from East St. Louis (p. 105). It is to be noted that while there is a difference at Lebanon, Illinois, of 3, 3, 3, 2, 2, and 1½ on the other classes, that when we get to Banister, Illinois, there is a difference of less than a cent under the old adjustment on ninth-class. It is .8 of a cent in favor of East St. Louis under the old adjustment and under the new adjustment there is a difference of 1.2 cents, but it shows that gradually this arbitrary differential of 3, 3, 3, 2, 2, and 1½ on the remaining classes diminishes until it reaches the 100-mile radius, where it disappears entirely or has disappeared under the former adjustment (pp. 106-107). That was until the 5 per cent increase in the interstate rate (p. 107). In every instance now the
1787 rates are higher from St. Louis than from East St. Louis. Giving as an instance Huey, Illinois, where the present rate differs in favor of East St. Louis 4.2, so that the difference is greater than the local rate (p. 107). If the combination of locals were observed as a maximum in this instance we would have the same rate from St. Louis today as we did have prior to the advance to Huey, Illinois. In making up the statement we aimed to take a station about every 25 miles distant, rather than take every station in Illinois, and the stations taken are typical of the conditions existing under the present arrangement (p. 108).

He also had prepared under his supervision, and he knew it to be correct, Exhibit No. 2, which is comparative table showing the class rates from St. Louis versus Chicago to equi-distant points in Illinois containing the tariff references (p. 109), which exhibit is in Appendix hereto, pp. 74 to 76.

1788 In explaining the exhibit he used the Illinois Central as typical, because it served the Central, Southern and Northern Illinois and took the Town of Kankakee, showing the present rate from Chicago to Kankakee fifty-four miles, is 24.1 (p. 110). The proposed advance of 5 per cent suspended by the Illinois Public Utilities Commission would have made the rate 25.3. The rate from St. Louis to Coulterville for an equal distance is 27.5 cents, the former rate was 26.3 cents. While this former rate was already in excess of the rate from Chicago to Kankakee for even a greater haul, the rate from St. Louis, by reason of this 5-per-cent increase, a still further spread has been created for a similar haul from St. Louis as compared with Chicago for a like haul (p. 110). The present rate is 3.4 cents higher from St. Louis to Coulterville than from Chicago

to Kankakee (p. 111). There is no difference in the transportation between Chicago and Kankakee than existed between St. Louis and Coulterville (p. 112). He compared the rate from St. Louis to Thomasville, Illinois, 79 miles, with the rate from Chicago to Gilman, Illinois, 80 miles. The present rate from St. Louis to Thomasville is 32.2 cents. It was 30.8 cents first class. The rate from Chicago to Gilman for a distance one mile greater is 28.8 cents first class, Thomasville being within the 100-mile radius. The rate was determined formerly by using the distance rate from East St. Louis of
27.8 cents and adding to that the 3 cents commuted arbitrary,
1789 making 30.8 cents, which is the same as the former rate in-
dicated (p. 112). That spread has been increased by the increase in interstate rates. The points shown on the exhibit are fairly typical of conditions generally and were picked at random (p. 113). Class rates from Gary, Indiana Harbor and Hammond, Indiana, were advanced, but have since been restored to the old basis by several lines—put back on the Chicago basis in Illinois (p. 114). There are industries in these three towns that compete with St. Louis and he mentions several of the industries (p. 114). These three places are in the Chicago switching district. It is twenty miles from Gary to Chicago (p. 115). From Union Station, St. Louis, to Relay Depot, East St. Louis, three miles. In a number of cases St. Louis is nearer to Illinois points than East St. Louis (p. 116). He also prepared a statement and had it prepared under his supervision and knew it to be correct, showing comparison of commodity rates between St. Louis and Chicago and manufacturing points within the Chicago district (p. 116). Consists of two pages, marked Exhibit
No. 3, which exhibit is in Appendix hereto, pp. 77 to 82.
1790 In preparing the statement he takes points midway between
St. Louis and Chicago so as to readily convey the rate adjustment obtaining between the two cities and gives an illustration of Clinton, Illinois, 147 miles from Chicago and 146 miles from St. Louis (p. 117). The present rate on bar iron from Chicago is 7 cents per hundredweight. From St. Louis 14.9 cents. Structural iron 8 cents from Chicago, 14.10 from St. Louis.

There is a vast difference there between St. Louis and East St. Louis. No commodity rates are published from St. Louis to Clinton on these commodities, but there is a rate from East St. Louis to Chicago of 9 cents per hundred which is observed as a maximum to Clinton. This emphasizes the advantage Chicago and Chicago manufacturing district already enjoys in getting into Illinois, including Gary and Hammond, Indiana. St. Louis has been further subjected to another increase of 5 per cent, thus creating a greater spread than existed before (p. 118). Gary and Hammond, Indiana, are in the Chicago manufacturing district and their rates are on the Chicago basis, or the old basis, which gives them a decided advantage over St. Louis (p. 119). Points were taken on different lines and such points in Illinois as would fairly illustrate the situation. It does not take into account all the commodities from Chicago or from Gary
or Hammond or from Indiana Harbor, Indiana, into this
1791 territory (p 119). But it shows some of the heavy articles on
which the freight rate is particularly felt and because Gary

is a direct competitor with the industries located in the St. Louis district, Gary being permitted to come into Illinois at the old Illinois rate, whereas, St. Louis cannot go as far in Illinois as Gary, Indiana, can (p. 120). There is substantial competition between St. Louis proper, Gary and Hammond, Indiana, on business to Illinois points (p. 121). The witness has had prepared a map of Illinois showing that by reason of this advance of 5 per cent in the rates from St. Louis, the territory—the dividing line where the rates from St. Louis were formerly the same as the rates from Chicago—has been moved southward so that Chicago has really gained a strip of about 20 miles across the State of Illinois to which that city enjoys lower rates than St. Louis (p. 121), Exhibit 4 (p. 123). He prepared the tables of rates embodied in the petition and knew that they were correct. The table in the complaint fronting page 8 was made Exhibit 5, and the witness filed his Exhibit 6, a table correcting certain errors discovered in it after the original was prepared (p. 125), which exhibit is in Appendix hereto, pp. 83 and 84.

1792 Exhibit No. 7 is the same as the table facing page 10 of the petition (p. 127). His Exhibit No. 8 is the same as the table attached to page 11 of the complaint (p. 128). His Exhibit No. 9 is the same as the table on page 7 of the complaint (p. 129). No. 9 shows comparative rates from St. Louis to Chicago to equi-distant points on the first 5 classes and the ton per mile and gives the tariff authority, all being tariffs filed with the Interstate Commerce Commission (p. 129). The purpose of that table is to show that while the rates were formerly the same beyond a hundred miles under the new adjustment by reason of the 5 per cent increase in the interstate rates the rates from St. Louis are higher than the rates from Chicago, and Exhibit No. 8 shows the same as between St. Louis and East St. Louis with respect to points within the 100-mile zone (p. 130). This Exhibit 8 shows that the rates from St. Louis are in nearly every instance in excess of the combination of locals (p. 131). (We call attention to the fact that all of the tariffs showing the Illinois rates referred to in these exhibits have been filed with the Interstate Commerce Commission and bear an I. C. C. number.) Rates from St. Louis to Illinois points are today in every case in excess of the rates from East St. Louis. To many points within the 100-mile zone they are in excess of the combination of locals. To points beyond the 100-mile radius they are in excess of the rate from East St. Louis (p. 131). Whereas, under the former adjustment

1793 prevailing prior to the advance in October, the rates from St. Louis and East St. Louis to such points were the same (p. 132). With respect to the rates from East St. Louis versus St. Louis to points in Missouri the rates are the same to many points, but there is no fixed boundary line such as there is in Illinois. It varies. In some instances the rates are substantially the same from East St. Louis as from St. Louis to points about fifty miles from St. Louis. In other instances they run out quite a distance before they meet. So that there is no uniformity in that respect as there is on the east side, but substantially the same condition obtains on both sides of the river. That is, obtains in Missouri now as did apply in Illinois (p.

132). He prepared a diagram showing the rate adjustment as between East St. Louis and St. Louis to points on either side of the river (p. 134), Exhibit No. 10 (p. 134). The diagram portrays the rate adjustment which obtained between St. Louis and points in Illinois as compared with East St. Louis and which did and does now obtain between East St. Louis and points in Missouri as compared with St. Louis. Prior to the 5 per cent advance complained of the rates between St. Louis and points in Illinois within the 100-mile radius were higher than the rates between East St. Louis and the same points. The differences varied, beginning with 3 cents
1794 for the first three classes, 2 cents for classes four and five and 1½ cents for classes six to ten, inclusive, and gradually diminishing as the 100-mile distance is reached, disappearing entirely beyond the 100-mile radius. To points beyond, the rates between St. Louis and stations in Illinois were the same as between East St. Louis and the same stations. Under the existing adjustment since the increase, the rates from St. Louis to points in Illinois are in all instances greater than the rates between East St. Louis and such points. The rates between St. Louis and East St. Louis and points in Missouri are differently adjusted, as illustrated by the diagram. A heavy black arrow head indicates where the rates in Missouri are the same from St. Louis and East St. Louis (p. 135). It also shows the distances. Witness explained in detail the rates as shown by the diagram to the Missouri points, giving the names of the stations, the railroads and the Interstate Commerce Commission numbers of the tariffs (pp. 136, 138). On the Chicago & Alton rates from East St. Louis are the same as from St. Louis to all points in Missouri. E. B. Boyd's tariff, 505, I. C. C. No. 15. On the Burlington they are the same to Annada, Mo., seventy-eight miles, and many rates are the same to points less distant. I. C. C. 11000. Rates are the same to Old Monroe, Mo., fifty-five miles from East St. Louis, on the first four classes and also on classes A and C (p. 136). On the Wabash the tariff, I. C. C. No. 3040, rates are the same to Wellsville, Mo.,
1795 ninety-five miles. On the M., K. & T. tariff I. C. C. A-3848 the rates are the same to North Jefferson, Mo., 147 miles from East St. Louis. Missouri Pacific tariff, I. C. C. A-2154, the rates are the same to Jefferson City, 128 miles. The Rock Island, I. C. C. C-9310, the rates are the same to Eldon, Mo., 163 miles from East St. Louis. On the Frisco, I. C. C. A-494, the rates are the same to Springfield, 242 miles from East St. Louis (p. 137). On the Iron Mountain, I. C. C. 1058, the rates are the same to Corning, Arkansas, 199 miles from East St. Louis. On the St. Louis & Southwestern, I. C. C. No. 3328, the rates are the same to Illmo, 130 miles from East St. Louis (p. 138). In preparing the Illinois comparative tables he used the tariffs carrying such rates and all of these rates are carried in I. C. C. tariffs, which were filed with the Illinois Public Utilities Commission as well as the Interstate Commerce Commission (p. 139). Complainants offered in evidence at this point copy of the order of the Illinois Commission, October 22, 1914, suspending the tariffs of the carriers making a 5 per cent advance in class and commodity rates (p. 140).

Tariffs were suspended until March 15th, 1915. Versen's Exhibit No. 11. Another certified copy of an order suspending the tariffs to September 15th offered. Exhibit No. 12 (p. 143). Another certified copy of an order further suspending the tariffs to March 15, 1915,
No. 13 (p. 143). No. 14, a certified copy of the order sus-
1796 pending the tariffs by the Public Utilities Commission of Illinois to September 15, 1915 (p. 146). The orders relate solely to the freight rates (p. 146). (It is noticed that all the tariffs have been filed with the I. C. C. and bear the number of the I. C. C.) (p. 165). There has been no change in the conditions of travel or transportation between points in Illinois and between St. Louis and points in Illinois which, since the increase in the interstate rates of 1914, did not exist prior to the increase becoming effective (p. 167). In his opinion there was no question but what the shippers and people in St. Louis generally are injuriously affected by the increased spread in the rates brought about by the increase in the interstate rates and the fact that the state rates in Illinois were not increased (p. 168). It does a substantial damage to the industries of St. Louis. While the increase might be small, nevertheless it is a talking point for a salesman (p. 168). Witness testified that the rates on lumber from the southwest into East St. Louis are now the same as to St. Louis (p. 172). Rates in general have been the same in both places, St. Louis and East St. Louis, but this has not been the case since the 5 per cent advance in the Illinois interstate rate (p. 172). It has been the contention of the complainant all the time that the rates should be the same and on a parity between the East Side and the Western Side (p. 173). Witness' Exhibit No. 30 (p. 174) is a book showing the
membership, purposes and organization of the complainant
1797 and who it represents.

Cross-examination:

In explaining Exhibit No. 10 (the diagram), witness stated that there was a disparity of 5 per cent now beyond the 100-mile zone in Illinois and no such disparity in going west into Missouri. The interstate increase of 5 per cent only applied between the east to St, Louis (p. 178). Beyond the lines of demarcation on diagram (Exhibit 10) indicated by the arrow heads, the rates to the west are the same from East St. Louis and St. Louis. The rates are the same on all classes to those points designated and in some instances there are commodity rates which are the same from East St. Louis and St. Louis to points less distant, but he thought the class rate adjustment would be typical of the general adjustment in Missouri, and if this fact is taken into account, that in some cases the rates from East St. Louis are the same as from St. Louis to points in Missouri, the average distance would not be in excess of 100 miles. The 100-mile zone in Illinois was established as the result of an arrangement as testified by Mr. Coyle. There was no such arrangement west of the river. The Illinois classification divided into ten classes applies to traffic between St. Louis and points in Illinois. From St. Louis to the West

the western classification generally applies (p. 181). So
1798 that on traffic between St. Louis and East St. Louis and Illinois the same classification applies, and on traffic going from St. Louis and East St. Louis to the West there is the same classification (p. 181). The protests filed against the taking effect of the interstate rates were based largely upon the grounds of the disturbance of the relationship of the rates (p. 182). The Commission declined to suspend the rates, but did so without prejudice to the right to file formal complaint (p. 183). Exhibit No. 1 was for the purpose of showing the former adjustment between St. Louis and East St. Louis and Illinois points and the difference in favor of East St. Louis within the 100-mile radius and to show the increase in the difference between East St. Louis and St. Louis by reason of the 5 per cent increase in the interstate rate (p. 183). The rates from St. Louis have been increased 5 per cent without any increase in the rates from East St. Louis, and the further you go from St. Louis the greater the amount of the increase (p. 184). It also shows the distance scale which would apply if St. Louis were placed in Illinois (p. 184). The statement shows, also, that through rates exceed the combination of the locals (p. 185). In making up the statements they took the published rates of the Terminal Association between St. Louis and East St. Louis and the published rate from East St. Louis to a point
in Illinois, the tariff for which was filed with the I. C. C. (p.
1799 186). Witness explained how the tariffs on intrastate business bear I. C. C. numbers, being filed with this Commission. Stated that the tariffs were filed with the I. C. C. because they were used in state and interstate business. All these tariffs were filed with the I. C. C. (p. 189).

They have been superseded by the increased rates effective October 26, 1914, only so far as St. Louis traffic is concerned (p. 189). Exhibit No. 2 was made for the purpose of showing the disparity between the rates from St. Louis into Illinois and between Chicago and points in Illinois equi-distant. The disparity is 5 per cent increase as against St. Louis plus. That is to say, one disparity is, that to nearby points St. Louis shippers are obliged to pay a commuted arbitrary over the rates to and from East St. Louis to points within the 100-mile radius and in addition to that difference against St. Louis they are also subjected to 5 per cent increase (p. 191). The disparity is caused entirely by the 5-per-cent advance (p. 191). The rates from St. Louis and East St. Louis to C. F. A. territory and Eastern Trunk Line territory were advanced 5 per cent in pursuance to the Eastern 5-per-cent decision. No increase was made in the rates between points in Illinois (p. 192). According to the witness, it was his view that the shippers in Illinois are to the extent of the 5-per-cent disparity favored as against the interstate shippers (p. 194).

Witness had one complaint from shippers in St. Louis of
1800 pleasure vehicles on account of the advance from Moline to St. Louis without any advance from Moline to East St. Louis (p. 195).

Carriers did not directly or indirectly suggest or aid in the institution of this proceeding (p. 200).

Redirect examination:

The absorption by carriers is practically the same at St. Louis and East St. Louis (p. 242).

The density of the traffic over the bridges and terminals in St. Louis is very great as compared to the density of traffic over single lines in Illinois (p. 248). The terminal in furnishing service does not furnish any cars. It has no freight cars (p. 349). There are other differences between the transfer by the Terminal across the river and the transportation for a corresponding distance on the prairies in Illinois to warrant the less charge for a mile than on the prairies (p. 250). Witness identified Terminal Tariff No. 23-G, I. C. C. No. 98. That is the tariff that applied to the rates complained of herein.

HARRY SCULLIN, president of Scullin Steel Company of St. Louis, engaged in the manufacture of steel castings. Plant located in the west suburbs of St. Louis. Competing with plants in Chicago. Principal competition with two plants in East—one in East St. Louis and one in Granite City, Illinois (p. 260). He is familiar with the fact that there is a difference between the interstate and
1801 intrastate rates into Illinois, and feels it in competition. The increase in interstate rates means a difference of 10 cents a ton on steel on all shipments made to points in Illinois and received from points in Illinois (p. 261). His rate to Chicago is 9½ cents per hundred weight, East St. Louis and Granite City plants rate to Chicago 9 cents and one plant at Hammond, Indiana, which takes the Chicago rate. His rate to their plant is 9½ cents and East St. Louis and Granite City is 9 cents (pp. 261-2). During the last ten months he shipped 4,906 tons to Chicago district and received from that district 7,832 tons. Total, 12,738 (p. 262). That would be below the average shipments. The majority of the shipments for the ten months have been to Eastern States. He is compelled to absorb that additional cost of 10 cents per ton above his competitors (p. 263).

Cross-examination:

He obtains a great deal of his raw material in Chicago (p. 263). Ships raw material inbound and manufactured castings outbound (p. 264). Plants in Granite City and East St. Louis manufacture the same character of material his company does and he supposes he gets his raw material from the same points they do (p. 265). Certainly feels the competition of the plants in East St. Louis and Granite City (p. 265). His principal competitors are in Granite City and
1802 East St. Louis (p. 266). Big carload shipments practically all go to the Chicago district, which is true of his competitors. His plant is located in Benton, a suburb of St. Louis, on the Missouri Pacific and Frisco tracks just beyond the Terminal tracks (p. 267). About 30 or 35 per cent of the products of his plant in the last 10 months went into the Chicago district (p. 268). He thinks the rates from St. Louis and East St. Louis to these points should be the same (p. 272).

Mr. SHAPLEIGH is president Shapleigh Hardware Company, St. Louis, Mo. (p. 273). Was a member of the St. Louis Bridge and Terminal Commission which negotiated with the East side carriers in relation to the rates and services to St. Louis covering a period of about six years. The result of the conferences was the rates between St. Louis and points outside of the 100-mile zone. There was a commuted arbitrary (p. 274). First succeeded in getting St. Louis made a basing point and then abolishing the St. Louis bridge arbitrary outside of the 100-mile limit, and St. Louis and East St. Louis and Granite City and Madison, Illinois, were to be considered as one commercial group and the rates were to be the same (p. 275). Carriers conceded that to be just and reasonable. That condition continued until the 5 per cent advance, which 5 per cent advance is a burden upon St. Louis shippers and receivers of freight (p. 276).

1803 Cross-examination:

The commerce and trade in Illinois has developed at a rapid pace and is now prosperous (p. 277). This company does a wholesale hardware business and has many customers in Illinois and it feels the competition in Illinois. Its chief competitor is in Chicago (p. 279). His Chicago competitor pays 5 per cent less under the present conditions than his company does and that is what he wants removed (p. 281). When the arrangement was made with the presidents of the East Side roads it was on the principle that the two sides of the river should have the same rate (p. 282). It was on that basis the rate adjustment was made (p. 283). There can be no doubt that other business in St. Louis was affected in the same way as his business (p. 284).

L. M. WALLACE is assistant traffic manager of the Laclede-Christy Clay Products Company, located in St. Louis, and one of the largest clay products companies in St. Louis and in the country. Has had occasion to consider the question of the difference in the rates on shipments from his plant to points in Illinois and upon shipments made in Illinois on intrastate rates (p. 286). Has much competition in Illinois. Competitors located at Ottawa, Elsey, McComb, Monmouth and Alton, Illinois. The difference in the rates which his competitors in Illinois enjoy on business is very large (p. 287).

1804 His products are low priced, low grade, bulky commodities and are very much affected by change in freight rates, even to the fraction of a cent. Before the advance in rates his competitors in Illinois had an advantage over him to a great many points nearby and a large majority of his business in Illinois is done north of St. Louis in the northern part of Illinois and his competitors being located there makes this burden on him even greater than it would be if they were scattered. His products are sold to users themselves and to shippers and dealers. The shippers and dealers do not make a large profit. Usually a dollar on a thousand brick. If the rate is advanced one-half a cent per hundred pounds on firebrick it means 25 cents a thousand. If a jobber is making a profit

of a dollar a thousand and is forced to pay 25 cents additional it means 25 per cent loss or an increase in the price (p. 288). That does not exist as to competitor's customers for an equal distance in Illinois. His customers have to stand it, whereas his competitor's customers do not have to stand it. For instance, before the 5-per-cent advance from St. Louis to Alton the rate on fire-brick and clay was 3 cents per hundred and is now 3.2, whereas the rate from Elsey and Whitehall, Illinois, two competing points, the rate was and still is 3 cents, giving them a .2 of a cent per hundred advantage. From St. Louis to Quincy the rate on fire-brick, clay, fire-clay, flue lining and hollow building tile before the 5-per-cent advance from St. Louis was 5.5 cents per hundred pounds and is now 5.8 cents,
1805 whereas the rate from Whitehall, Elsey and Ottawa, Illinois, competing points to Quincy was the same, 5.5 before and is still 5.5 cents, giving them an advantage of .3 cent per hundred pounds (p. 289). Elsey, Illinois, to Quincy, Illinois, was 5 cents and is still 5 cents, which gives them .3 of a cent larger advantage than they had before (p. 289). St. Louis to Decatur was 4.5 before the advance from St. Louis. Is now 4.8. From Elsey, Illinois, to Decatur it was 4.2 and is still 4.2, which makes a .3 cent a hundred in their favor. All those points are consuming points of our products. The distances are practically equi-distant. St. Louis to Danville was 6 cents a hundred and is now 6.3 cents. Ottawa and Monmouth to Danville was and still is 6 cents per hundred pounds. St. Louis to Rock Island was 7 cents. Now 7.4. From Whitehall and Alton to Rock Island it was and is 7 cents, giving them a .4 of a cent over St. Louis (p. 290). St. Louis to Peoria was 5.5 and is now 5.8. Whitehall and Alton to Peoria was 4¾ and is still 4¾ cents. St. Louis to Chicago was 7 cents and is 7.4. Alton and Elsey to Chicago was 6 cents and is still 6 cents. He is placed at a disadvantage to nearly all Illinois points and the 5-per-cent increase has made a spread between the rates he enjoys and the rates his competitors enjoy. The fraction of a cent spread is a very material disadvan-
tage to him on account of his product being sold on a tonnage
1806 basis and one or two dollars per carload means very much in the selling price. He shipped probably 750 to 1,000 carloads per year into Illinois (p. 291).

Cross-examination:

His plant is located on the Missouri Pacific and Frisco tracks in St. Louis. Obtains a great part of his raw material at the plant. His competitors obtain most of their raw material at their plants (p. 292). The rates he mentioned apply on fire brick, fire clay, flue lining and hollow building tile and the competitors he mentioned manufacture the same things he does and sell in the same territory (p. 293). His product runs from 50,000 minimum all the way up to 100,000 pounds per car (p. 294). He manufactures sewer pipe which loads 60,000 pounds minimum per car (p. 294). He manufactures fire brick, wall coping (p. 295). The rate from Alton to Chicago is 6 cents and from St. Louis to Chicago 7.4. Prior to the

increase it was 7 cents from St. Louis. It is about 25 to 28 miles from St. Louis to Alton (p. 297). In his opinion the increase makes an unreasonable charge on the haul from St. Louis. He thinks a reasonable amount to add to the Alton rate would be half a cent (p. 298). About one-tenth of his business goes to Illinois points (p. 300). The rate from Ottawa to Danville is 6 cents. From St. Louis to Danville before the increase was 6 cents and he contends that the equality of rates to Danville should continue. It
1807 was his idea that the rates should continue to be the same (p. 301.)

B. F. FULLER, assistant to the president of the Ford Manufacturing Company, manufacturing roofing materials. Plant located at Vandalia, Illinois (p. 302). Has strong competition in East St. Louis, Madison and Chicago, Illinois. His business has been affected injuriously by the 5 per cent increase in the interstate rate. Since then his customers have been asking him to equalize the East St. Louis freight rates, or, in other words, they do not want to stand the 5 per cent advance even though the goods are sold f. o. b. St. Louis and he has to equalize the rate or lose the business. They ship 150 cars from Vandalia to the St. Louis warehouse in St. Louis and then make shipments from there to Illinois points (p. 303). He made a list of forty-eight cars moving from Vandalia to St. Louis from October 28, 1914, to September 8, 1915, and the 5 per cent increase cost them on the forty-eight cars $94.38 additional rate. He was being called upon to equalize the East St. Louis freight rate all the time. He sells in practically all the points in Southern Illinois, all the towns in Southern Illinois, and this request for equalization of the East St. Louis freight rate is on the increase. What he seeks is to have the old relation of rates restored (p. 305). The 5 per cent increase in the interstate rate is affecting his business to the full extent of it (p. 305).

1808 Cross-examination:

He has a competitor at Marseilles, Illinois, East St. Louis and Madison, Ill., and several around Chicago. They are strong competitors for business in Illinois (p. 306). He does not contend that the rate from St. Louis and East St. Louis should be the same, but that the old relation before the increase should be restored (p. 308).

M. L. FITZGIBBONS is traffic manager of the Funck Lumber Company, doing a general lumber and reshipment business at St. Louis. Ships eleven or twelve hundred cars a year outbound and about the same amount inbound (p. 310). Ten or fifteen per cent goes to Illinois points and he has had occasion to consider the effect upon his business of the difference between the state and interstate rates since the 5 per cent increase, and for six months after the 5 per cent increase business fell off about forty or forty-six cars. The increase in the rates on the cars he shipped since the 5 per cent rate went into

effect would be about $140.00 in actual revenue (p. 311). That does not represent the disadvantage to which his competitors in Illinois put him for Illinois business because he lost probably other business on account of the increase (p. 312). This difference in the rate hampers him in his business in Illinois. He brings lumber into St.
Louis and then loads in mixed carloads of lumber, handles on
1809 a small margin and any difference in the rate is very material.
For instance, every cent advance in freight rates means a difference from 25 to 40 or 50 cents a thousand on lumber and the margin is very close (p. 312).

Cross-examination:

He has a mixing yard in St. Louis, located on the west belt. Ships mostly in carload lots (p. 313). Has competitors in East St. Louis and Cairo, Illinois, which sell in the same territory. Competitor in East St. Louis is regarded as his closest competitor (p. 314). To Rock Island and Moline, Illinois, difference in rate would be ½ a cent a hundred from East St. Louis (p. 314). Lumber is loaded 34,000 pounds minimum, and runs up to 60,000 pounds per car. Sometimes a little more. He sells in the territory both within and without the 100-mile zone, and to the territory beyond it he has the 5 per cent increase, testified to, and within the zone he has the five per cent plus. He ships mostly to Northern Illinois points, largely beyond the 100-mile zone (p. 315). He wants the equalization and removal of the disparity caused by the five per cent increase in the interstate rates. Wants either the Illinois Commission to raise their rates or to have the interstate lowered (p. 316).

CHARLES RIPPIN, traffic commissioner Merchants Exchange, St.
Louis, for the last three and one-half years. Rates on grain
1810 from points in Missouri to St. Louis and East St. Louis are different, but will be made the same September 20, 1915 (p. 388). And the rates from corresponding points in Illinois to St. Louis and East St. Louis were the same until January 8, 1914, when the St. Louis rate was made 1 cent higher than the East St. Louis rate. Some time in 1913 the Illinois carriers advanced the rates on grain and grain products from Illinois to interstate points and to state markets, such as East St. Louis, Peoria, Chicago and Cairo one cent per hundred pounds. The Merchants Exchange and others resisted the advance, and the Interstate Commerce Commission decided on January 8, 1914, in favor of the advance to interstate destinations, and the increased rates went into effect January 8, 1914. He had expected the state rates to East St. Louis and other state markets to go up with the increase to interstate destinations, because they had had an equality of rates on both sides of the river prior to that time and because they had for twenty-five years advocated the same rates to and from both sides of the river in order to prevent discrimination between persons operating one side of the river as against the other (p. 389). Certain interests in Illinois protested the advance to East St. Louis before the Illinois Commission, which

refused to allow the increased rate to East St. Louis and other state markets. The Merchants Exchange has always asked for the rates to St. Louis and East St. Louis to be the same on grain and
1811 grain products. There is a good deal of complaint now on account of the situation in Illinois. The people on the west side of the river complained about being hurt, and the men on the east side of the river having no advance of one cent per hundred pounds. There was the same complaint on the part of the East Side shippers concerning Missouri rates when they were out of balance. That situation has now been corrected. The rates are the same from Missouri points, outside of the small radius to St. Louis and East St. Louis, but they are not the same from corresponding Illinois points to St. Louis and East St. Louis (p. 391).

The equalization of the state and interstate grain rates from points in Missouri is the result of the proceeding before the Interstate Commerce Commission brought by the Merchants Exchange (p. 391). The equalization of the rates for Missouri was made by the carriers and the Missouri State Commission after the decision by the Interstate Commerce Commission (p. 392). A large part of the equalization came from advancing the intrastate Missouri rate (p. 393). The grain interests of St. Louis would be satisfied if the grain rates in the State of Illinois were advanced in the measure that the carriers proposed to the State Public Utilities Commission in Illinois (p. 394). His opinion as representing the grain interests in St. Louis is that it is in the interest of the grain trade that the parity be again restored; that is, that the rates from St. Louis and East St.
1812 Louis be made the same (p. 399). It is to the interest of the country shipper in order that he may get the benefit of competition of all buyers at the market instead of being restricted to the one side or the other. The Merchants Exchange wishes the state rate to be raised because the Interstate Commerce Commission has passed on the St. Louis rate and we regard that as paramount authority (p. 399). Merchants Exchange is an organization of about 1,100 merchants, dealing very largely in grain, grain products, feed and hay (p. 401). At the hearing seeking to get the same rates from Missouri points to St. Louis and East St. Louis there were several witnesses from East St. Louis who testified very earnestly how they were injured by the St. Louis man having a lower rate than they had at East St. Louis (p. 403).

The advance in the rate comes out of the grain—that is, the man who ships it. The grain does not come to the market and stay. It comes here to go somewhere else, and when it comes here it goes through a course of manufacture into feed. Here is one man buying Illinois grain who buys one cent lower than another and shipping out to the territory of consumption where the rates are equal, and that condition cannot last. If the St. Louis rate is higher than the East St. Louis rate, the St. Louis grain merchant loses the grain. The grain takes the delivery where it can find the cheapest place to be delivered (p. 397). The markets are generally more interested in the relation of rates than in the rate itself.

1813 *Defendants' Testimony.*

C. D. SUDBOROUGH, assistant general freight agent Vandalia Railroad (p. 461): Filed one statement, Exhibit No. 2, and also statement, Exhibit No. 3, showing the rates on 162 important less-than-carload commodities actually shipped from St. Louis, East St. Louis and from Terre Haute and Indianapolis to equi-distances in Illinois (p. 463). The official classification applies on shipments between St. Louis and Indiana and the Illinois classification applies on freight moving from St. Louis to Illinois points (p. 473). In ascertaining the rate between Illinois points and St. Louis the Illinois Commissioner's mileage scale is used. In using that scale, if the rate makes higher under the Illinois classification that it would be under the official classification the latter is used as a maximum, and vice versa (p. 472). Exhibit No. 3 shows that the rates from East St. Louis to Illinois points are lower than the rates to those points from St. Louis (p. 482). The same scale applies out of Chicago that does out of East St. Louis to Illinois points, and the rates out of Chicago to Illinois points would be the same as from East St. Louis (p. 485). The Vandalia Railroad relatively makes no greater allowance to the Terminal Railroad Association of St. Louis than it did prior to the time the rates were advanced (p. 490).

1814 W. C. MAXWELL, general traffic manager of the Wabash Railroad, and an expert (p. 543): St. Louis is being discriminated against in favor of Chicago and other Illinois points in the rates (p. 564). There has always been a certain parity between Chicago and St. Louis rates into Illinois—a certain relation. He believes as a matter of right and wrong the relation should be as it was before the increase and if the carriers could afford it they ought to change the present situation regardless of whether they got the Illinois rates up (p. 567). The cost of terminal service was taken into consideration in the adjustment made in 1908 (p. 572). There has been no change in the relative situation between St. Louis and Chicago; the relative situation is exactly as it was in 1908 when the adjustment was made (p. 569).

F. H. BEHRING, assistant general freight agent of the Southern Railway Company, and an experienced man in rate matters (p. 642): Exhibit filed. Exhibit No. 2, showing actual rates as compared with the advance from St. Louis and East St. Louis, the Illinois scale as advanced 5 per cent. Illinois scale, class B, reads without any advance (p. 647). He filed Exhibit No. 3, showing the commodity rates (p. 651). He was familiar with the adjustment of rates as between St. Louis and East St. Louis in 1908 and knew there was certain relation established. There has been no change in conditions that would warrant a change in that relation.

1815 No greater allowances relatively are made to the Terminal Railroad or its subsidiaries than were made prior to the advance in rates (p. 664).

F. L. THOMPSON, civil engineer and assistant chief engineer of the Illinois Central Railroad of many years' exeperience (p. 992). Since 1907 has had to do with track elevations in Chicago (p. 993). The Illinois Central has expended $3,561,000.00 on the line south and $309,000.00 west on the track elevation in Chicago. He prepared an exhibit that showed all the roads in Chicago, the expense to which they had been subjected in elevating their tracks in that city. The information was secured from the reports by the railroads to the commission on track elevation and in the last 10 days he took the question of the accuracy of the figures up with each line interested and had the figures verified, and the figures in the exhibit are the result of that investigation (p. 996). The total amount spent up to the end of the calendar year 1914 on track elevation was $73,320,293.11, and was estimated that it would take $16,159,234.00 to complete the work by the different companies. This blue print showing these figures and other information was his Exhibit No. 1 (p. 997). The figures only represent the actual cost of elevating the tracks, building subways, filling and paving the streets, and does not cover the cost of constructing the tracks (p. 998). As an engineer he estimated the cost to reproduce these bridges at St. Louis from 3 to 3½ million dollars each. There was no station costs in the amounts mentioned for elevation in Chicago (p. 999).

1816 W. L. GODFREY of the tariff bureau of the New York Central lines. Been in the traffic department for a number of years (p. 1035). Delegated to prepare data relative to the tile, sewer pipe and clay-products rate. Got up a statement with reference to it and separated sewer pipe and drain tile from the other clay commodities because the former moved in Illinois on the Illinois Commissioner's scale. The others usually move on the brick commodity rates in Illinois. Have read the testimony of Mr. Wallace for complainant. The brick-commodity rates in Illinois have been adjusted with respect to competition between the producing points rather than on a mileage scale (p. 1037). St. Louis district extends from Mexico and Vandalia in Missouri and Peoria and Whitehall, Illinois, on the north and Altamont, Illinois, on the east (p. 1038). Further explained other groupings in competitive markets. The group in which St. Louis is located runs west about 30 miles into Missouri and east 90 miles into Illinois (p. 1039). The manufacturers at competing points in Indiana and Missouri compete in Illinois with brick manufacturers located in Illinois (p. 1040). The rates have always been adjusted with reference to competition between the various producing points (p. 1041). Increase of 5 per cent made in all the interstate rates and not in the Illi-
1817 nois rates has placed Illinois at an advantage as against other manufacturers (p. 1042). Made a statement, Exhibit 1, showing the rates on these commodities from St. Louis and East St. Louis, and from Indiana district (p. 1043). Points picked out in the statement typical (p. 1044). Also another exhibit showing the relation of rates, between St. Louis and Terre Haute, to various Illinois points,

showing relationship of those rates. Exhibit No. 2 (p. 1048). The rate from Indiana Harbor, Indiana, was increased 5 per cent, but later restored to the old level to meet competition (p. 1050).

J. H. CHERRY, assistant general freight agent of the Illinois Central, with many years' experience in traffic department (p. 1063). He prepared Exhibits 1 to 24, inclusive (p. 1064). He gave a brief history of the basis of interstate rates between St. Louis, East St. Louis and Illinois (p. 1066), showing that for many years the rates between St. Louis and East St. Louis to Illinois points beyond the 100-mile zone were the same, and within that zone there was added to the East St. Louis rate the charge for crossing the bridge, which was graded down to the 100-mile point (pp. 1066-7). This situation remained until disturbed by the 5-per-cent increase complained of in October, 1914 (p. 1068). All of the interstate rates involved in this proceeding were involved in the Eastern Five-Per-Cent case (p. 1069). For rate-making purposes St. Louis and East St. Louis have always been grouped together on one basis (p. 1070). St. Louis has
1818 been treated as a part of Illinois for making rates from time immemorial (p. 1071). His Exhibit No. 4 is a chronological statement of the change in the class rates between St. Louis and important Illinois cities like Chicago, from 1899 to 1915 (p. 1075). Statement No. 5 is similar exhibit between East St. Louis and Illinois points and showing the proposed increase in intrastate rates (p. 1076). Exhibit No. 7 shows the present and proposed Illinois distance tariff commodity rates for representative mileage blocks (p. 1077). Exhibit No. 8 is a list of the tariffs of the various railroads suspended by the Illinois Commission, which proposed to increase the State rates (p. 1078), to become effective for interstate use between points in Illinois because they might have interstate freight moving on it (p. 1079). Exhibit No. 9 shows present and proposed class rates between Chicago, Peoria, Springfield, other Illinois points and St. Louis, the present and proposed rates to East St. Louis (p. 1079). Exhibits 10 and 11 purport to show how the Illinois distance tariff class rate scales compare with other States (p. 1081). The Illinois classification governs the Illinois scale (p. 1082). He explained these statements at length. Exhibit 17 shows the routes and present and proposed class rates between various Illinois points, including Chicago and East St. Louis (p. 1119). The situation in St. Louis and East St. Louis had required special treatment and by
1819 an arrangement between the carriers and the St. Louis municipal authorities the rate adjustment was made under which St. Louis and East St. Louis were grouped together to make them take the same rates on all traffic, generally speaking, in all directions (p. 1131). When the carriers in 1908 placed St. Louis on the East St. Louis basis on traffic to and from the East they simply completed the circle, as it were, for St. Louis and East St. Louis had been and were at that time on one rate basis on traffic to certain of the Ohio River crossings, such as Louisville, the Southeast, the Southwest, the West, the Northwest, and a large part of the North, and in

the fixing of this group basis the carriers treated St. Louis and East St. Louis somewhat as they have treated points outside of Chicago in the Chicago zone (p. 1131). According to his judgment as a traffic man, the present disparity on account of the 5-per-cent increase in the interstate rate works undue preference in favor of Illinois shippers, localities and traffic, and therefore unjustly discriminates against the St. Louis interstate shippers and traffic (p. 1132). On traffic between Chicago and St. Louis and Illinois points equidistant from both, St. Louis is unjustly discriminated against because the Chicago rates have not moved upward 5 per cent to preserve their relationship that has existed for many years between Chicago and St. Louis as shipping points to the Chicago and intermediate Illinois territory (p. 1133). St. Louis is being unjustly discriminated against as to all of the class and commodity rates par-
1820 ticularly involved in this case; that is, between St. Louis as against East St. Louis to points outside of the 100-mile zone, inside of the 100-mile zone and between St. Louis as against Illinois and, generally, between the rates as between St. Louis and Illinois points as against all Illinois points (p. 1133).

Cross-examination.

When he stated that there was no violation of the fourth section, page 11 of the complaint, that the rates from St. Louis to Illinois points shown thereon did not exceed the sum of the locals or intermediate rates he meant there was no violation of the fourth section because the intermediate rates were not subject to the Interstate Commerce Act (p. 1134). The 5 per cent increase on the interstate rate was made on the rate moving over the carriers up to the river (p. 1135). The bridge toll from St. Louis to East St. Louis added to the intrastate rate from East St. Louis to Illinois points makes a lower rate than the through interstate rate from St. Louis to Illinois points (p. 1136). When the interstate rate was increased 5 per cent there was no increase made in the rates between St. Louis and East St. Louis (p. 1137). The proportion which the Terminal Association gets remains the same as before the increase. In no instance was there any increase in the rates between St. Louis and East St. Louis. The increase was placed on the line haul up to East St. Louis
1821 (p. 1137). There are extensive terminals in Chicago, and witness judges from his general knowledge of the situation that it costs the carrier just about as much to apply the Indiana rates from the Chicago zone as it does to apply the East St. Louis rates from St. Louis (p. 1141). The unjust discrimination against St. Louis is by reason of the disturbance in the rate adjustment heretofore mentioned (p. 1153). For rate-making purposes to all points south, north and west, St. Louis and East St. Louis have always been grouped together on one basis (p. 1070).

Mr. F. E. WEBSTER, assistant general freight agent of the Chicago & Eastern Illinois Railroad. He has been connected with that company several years and had many years' experience in the traffic de-

partment (p. 1204). Exhibit No. 1 is a map showing the Chicago & Eastern Illinois and part of the Chicago switching district and the switching district of St. Louis and East St. Louis (p. 1205). He explained the map of Exhibit 1. Those figures on the map represent industries (p. 1206). Exhibit No. 2 map of Chicago switching district (p. 1207). He adopted what witness Cherry said regarding the rate situation and said that St. Louis and East St. Louis as an industrial community are entitled to the same rates to and from points outside of the 100-mile zone. The same rate today is applied from and to Chicago switching district and on traffic from and to Illi-
1822 nois (p. 1208). From Chicago they have road-haul carriers, first road-haul carriers, second belt lines, belt railway of Chicago, Baltimore & Ohio Chicago Terminal, the Indiana Harbor Belt; third, we have industrial railroads such as the Illinois Northern, the Pullman Railway, the Chicago, West Pullman & Southern, Manufacturers' Railway, etc. St. Louis and East St. Louis have first the road-haul carriers, belt lines and Terminal Railroad Association and subsidiaries, and, third, industrial lines like Manufacturers' Railway (p. 1209). He thinks the bridges and terminals in St. Louis and East St. Louis compare with Chicago subways and elevation of tracks. Chicago switching district covers between three hundred and four hundred square miles and the Chicago rate to Illinois points is carried from the entire switching district, subject to certain minimums (p. 1211). Previous to the 5 per cent advance the East St. Louis rate was applied to territory outside of the 100-mile zone from all industries in the switching district at St. Louis and East St. Louis. He gives the history of the formation of the Chicago switching district and how it was made into one district by negotiations and arrangements with the shippers, so that as point of origin or destination it is treated as one point (pp. 1214-5). The situation at Chicago does not differ in any material aspect from the situation at St. Louis and East St. Louis. The rate adjustment from St. Louis and East St. Louis to Illinois points is in his opinion just, because it gives the in-
1823 dustry in East St. Louis the same opportunity of competing with the St. Louis industry in territory outside of the 100-mile zone.

Examiner Gutheim: Mr. Webster, as far as you have gone, then, you take the position that you have at St. Louis and East St. Louis one unified commercial center similar to that which you have at Chicago and that you have under the old arrangement a blanket rate limited by distance beyond 100 miles?

Mr. Webster: Yes, sir.

Examiner Gutheim: Whereas in Chicago you have a blanket rate limited by a requirement of a certain minimum earning; is that right?

Mr. Webster: Yes, sir. That is correct.

Mr. Webster: The situation, in my judgment, at St. Louis and East St. Louis is identical with the situation at Chicago—the Chicago switching district. It is true that the method of working it out is different, but the result accomplished was the same. In other words, in carrying out, or in agreeing with the interests of St. Louis

to establish the East St. Louis rate to the territory outside the 100-mile zone the carriers considered what their earnings would be. In other words, it was only beyond a certain prescribed territory where the earnings would be so much approximately that they felt they could afford to take care of the terminal expense at St. Louis. The result was that they made the 100-mile zone rate the mini-
1824 mum rate under which they would take care of the terminal allowances or absorptions at St. Louis-East St. Louis. Now, when it came to Chicago, we will say three years later, the carriers there did not adopt as a minimum basis the rates for a certain prescribed distance, but they set instead the exact figures. In other words, they said we will make a Chicago rate from and to the Chicago switching district, provided the minimum figure is 2½ cents per 100 pounds, minimum 60,000 pounds, or $15 a car. In other words, the minimum earnings had to be $15 a car, or more, before they would take care of the terminal allowance or switching in the Chicago switching district. And at St. Louis-East St. Louis the minimum earnings should be the 100-mile rate before they would take care of the switching in the St. Louis-East St. Louis switching district.

Mr. Cardy: Now, the increase granted in the 5 per cent case would accrue to the line-haul carriers, would it not, operating between Chicago and St. Louis?

Mr. Webster: Absolutely; no part of it went to the terminal carrier.

Mr. Cardy: And there has been absolutely no change in the switching rate at St. Louis or any additions in the absorptions that the line-haul carriers would have to make?

Mr. Webster: No, sir.

Mr. Cardy: Neither at Chicago nor St. Louis?

Mr. Webster: No, sir.

1825 Mr. Cardy: The terminal situations being identical both before and after the increase?

Mr. Webster: Generally speaking, that is true.

It is generally recognized that the greater the length of the haul the less cost per mile in handling cars. In working out the St. Louis-East St. Louis situation the carriers thought they could handle the car 100 miles and get an earning for 100 miles, and could afford to take care of the expense between St. Louis and East St. Louis (p. 1222). St. Louis-East St. Louis switching district is not quite as large as the Chicago district. Between 1,700 and 1,800 industries in the St. Louis and East St. Louis district and between 3,200 and 3,500 in the Chicago switching district; that is, the industries that require track connections (p. 1222). In handling traffic from Illinois points to Chicago and from the same points to St. Louis the operating conditions are substantially the same (p. 1223).

Cross-examination:

Many of the tracks in the Chicago switching district are elevated (p. 1224). In his opinion the present rate situation is a discrimination against St. Louis in favor of Chicago on shipments from Illinois

points to the extent of 5-per-cent advance. It is also discrimination against St. Louis in favor of East St. Louis and the towns on the east side of the river (p. 1225). The same conditions existing between Chicago switching district and the East St. Louis and St.
1826 Louis switching district since the plans were adopted in St. Louis, 1908, and in Chicago, 1911. There is no justification in the traffic or operating conditions for the discrimination against St. Louis in favor of Chicago, East St. Louis and other Illinois points mentioned (p. 1225). The numbers in parenthesis on the maps show the location of industries. The names of the industries are shown on the right-hand side of the map. The industries correspond with the numbers (p. 1231). Refers to Exhibits 1, 2 and 3. These industries in St. Louis, East St. Louis and Chicago compete with each other (p. 1231). Chicago switching district is between thirty-five and forty-five miles long (p. 1232) and eight to ten miles wide (p. 1233). St. Louis and East St. Louis district about sixteen miles from east to west and fifteen to twenty miles north and south (p. 1233). The key on Exhibit No. 3 was there when made and signifies nothing (p. 1233). On the back of No. 2 is an alphabetical list of stations within Chicago switching district (p. 1233). They are not all within the corporate limits of Chicago by any means, but are a part of Chicago switching district (p. 1234). In his opinion, the East St. Louis and St. Louis is one large industrial and commercial center and as such should have the same rates subject to the 100-mile limit as stated (p. 1235). The discrimination should be removed by increasing the Illinois State rates 5 per cent, because all of the interstate rates from and to Illinois points have been
1827 increased (p. 1236). And the State increase would equalize them (pp. 1236-1238). It costs us more to make deliveries in the Chicago district than it does in St. Louis and East St. Louis districts. That is the actual out-of-pocket expense we go to (p. 1333). The mileage in Chicago switching district is much larger than the mileage in St. Louis-East St. Louis switching district (p. 1224).

C. W. CALLIGAN, general freight agent of the Chicago & Alton, and many years' experience in traffic department (p. 1283). On account of the 5-per-cent advance going in from St. Louis with no corresponding advance from East St. Louis I think that a disparity is created which work to the disadvantage of St. Louis, and that the entire territory of St. Louis and East St. Louis should be one zone and carry one rate to points outside of the 100-mile zone (p. 1286). And to points within the 100-mile zone the same plus the river transfer. He compares the figures in page 7 with the complaint. If the spread caused by the 5-per-cent increase in interstate rates was abolished it would practically equalize the rates for equal distances between Chicago and St. Louis (p. 1289). There is a discrimination against St. Louis in favor of Chicago to equi-distant points and there is no good reason why it should be continued (p. 1293). C. & A. has considerable traffic out of St. Louis to Illinois—all kinds of traffic (p. 1293).

1828 Cross-examination:

He heard Mr. Webster's testimony and makes the same statements Mr. Webster did in regard to the Chicago terminals. He thinks Mr. Webster's testimony is correct (p. 1292). There is discrimination between Chicago and St. Louis in favor of Chicago to equi-distant points in Illinois and there is no reason why it should be continued (p. 1293).

THOMAS R. FARRELL, assistant general freight agent of the Wabash, and many years' experience in the traffic department and familiar with the issues in this case (p. 1299). He has heard the testimony of Mr. Cherry, Mr. Webster and Mr. Galligan, and adopts, so far as applicable to his line, the testimony of those witnesses (p. 1300).

Cross-examination:

There is discrimination against St. Louis in favor of Chicago by reason of the present rate adjustment to the extent of five per cent in the interstate rate. Chicago can transport goods further into Illinois territory for a given amount of money than St. Louis (p. 1304). To distances over 100 miles (p. 1304) and within 100 miles, five per cent plus a further differential (p. 1305). The absorptions in the Chicago Terminals are greater than those in the St. Louis Terminals as to Illinois traffic (p. 1305).

1829 F. E. WEBSTER, recalled. On cross-examination, Mr. Webster explained in detail the absorption on business to Chicago switching district, and how it worked (p. 1328). And what he said as to the C. & E. I. is also true as to other railroads going into Chicago (p. 1328). The average cost of making deilveries from the Chicago district compares very favorably to St. Louis and East St. Louis. It costs more in Chicago than it does in St. Louis and East St. Louis (p. 1333). He explained the rate situation with reference to Illinois points and the Indiana scale and the Indiana rates, and that situation is the same at Chicago as at St. Louis with reference to traffic from Indiana (p. 1337). The switching in Chicago district is reciprocal, and so is the switching arrangement between St. Louis and East St. Louis (p. 1342).

HENRY C. BARLOW, traffic director of the Chicago Association of Commerce, and an expert in rate matters, offered Exhibits A, A1, 1, 2, 3, 4, 5, 5-A and 6, all in one volume (p. 1616). He explains these exhibits from pages 1616 to 1641. The exhibits are tables of rates on interstate freight from various points to Chicago and other destinations, which show a discrimination against Chicago in favor of points East (p. 1641). Witness then continues to explain these exhibits with reference to certain statements. St. Louis is in the same position as Chicago, both being discriminated against (p. 1652). Practically all of his testimony is explaining in de-
1830 tail and illustrating the exhibits.

Cross-examination:

St. Louis is suffering in the same way that Chicago is on account of the rates from Indiana and Central Freight Association territory into Illinois (p. 1713).

W. C. STITH, traffic manager of the Terminal Railway Association of St. Louis, and an expert traffic man (p. 1671). The Association's current tariff is I. C. C. No. 101, effective October 1, 1915. It was filed also with the Missouri and Illinois Public Utilities Commission. It shows the separations of the tariff into three districts—trans-river rates, rates in Missouri and rates in Illinois (p. 1682). But they are treated separately for convenience and distribution (p. 1683).

Cross-examination:

Territory on the Illinois side served by the association is about fifteen miles long (p. 1684). There is no connection between the East Side and West Side carriers, except through the Terminal Railroad Association of St. Louis, and its subsidiary lines, with the exception of the Ivory Ferry. The Terminal charges are a division of the rate on all traffic except what originates on its rails. This Tariff 23-H, I. C. C. 101, is a strictly local tariff on all of the through business than is handled from the East to St. Louis. The Terminal Railroad Association is a concurring carrier in the through
1831 publications and the charges that are made for the terminal service are protected by division sheets, but the rates in those division sheets are absolutely the same as the rates in this Tariff 23-H. so that it only has one basis of charge (p. 1688). Tariff 23-H is subject to the Illinois classification, but not to the rules of that classification.

The Terminal's revenue is always as the division of the rate on the through traffic; that is, from Illinois or elsewhere to St. Louis, and the Terminal bears all the cost of the maintenance of its property and operation and the only cost of carriage of the transportation to the line carriers in Illinois is the cost they pay to the Terminal under that tariff except, possibly, the deliveries made through Cupples Station (p. 1689). St. Louis and East St. Louis are treated as one switching district except as to the rates on the Terminal's own line; that is, the rates from one point on the west side is the same to all points on the east side, etc., under section 5 of the Tariff 23-H (p. 1690). There was no change made in the amount paid to the Terminal Railway Association for its services in connection with those rates, or its division of the rate, either its tariff or division, since the advance in the interstate rates in 1914 (p. 1691), but they remain as they were prior to the advance.

1832 Passenger Fares.

A. F. VERSEN testifies that the tariff increase in interstate passenger rates became effective December 1, 1914. Prior to that time the complainant had requested the Interstate Commerce Commission to

suspend the advances, which request was treated the same as the request to suspend the freight tariffs (p. 95). He filed an exhibit, No. 15 (p. 148), consisting of two pages showing the fares from many points in Illinois on all of the carriers running out of St. Louis into Illinois from Illinois points to St. Louis and East St. Louis (p. 148). The exhibit is in Appendix hereto, pp. 85 to 91. He explained the exhibit as follows:

1833 Mr. Versen: There are two pages to this exhibit. We have shown a number of points on each of the several lines operating out of East St. Louis into Illinois. The first is the Baltimore & Ohio Southwestern; taken in alphabetical order that ranks first. We show first the selling fare or the local fare into East St. Louis, then we show also the basing fare into East St. Louis, for the determination of the selling fare to St. Louis, the selling fare to St. Louis being shown to the extreme right of the exhibit. To take Lebanon, Illinois, twenty-two miles from East St. Louis, it is shown that the rate, which is indicated in cents in this exhibit, is 42 cents, or in round figures 2 cents per mle. The tariff authority is a tariff not filed with the Interstate Commerce Commission, but filed with the Illinois Public Utilities Commission. The next line of figures shows the basing fare to and from East St. Louis which, for twenty-two miles, is 54 cents, the equivalent of about 2½ cents per mile. Adding to that a 25-cent toll for crossing the river makes a rate to St. Louis of 79 cents. Now, as a matter of fact the rate of 79 cents to St. Louis is 37 cents in excess of the fare to East St. Louis, of the actual selling fare to East St. Louis. The difference noticed here is not so pronounced as it would be on longer hauls. We will take, for instance, Kensington, Illinois, shown in the Chicago & Eastern Illinois exhibit on the first page. We show that the rate there for 268 miles is $5.26; that is the fare to

1834 Granite City, which is equivalent to 2 cents per mile; in fact, a little less. The basing fare to East St. Louis or to Granite City for the purpose of making a rate to St. Louis is $6.75. To that is added 35 cents, making a rate of $7.10.

Mr. West: What is the 35 cents added for?

Mr. Versen: It is added to the $6.75 rate for the crossing of the river from Granite City to St. Louis.

Mr. West: The Terminal Company's charge?

Mr. Versen: Yes, sir. Now, our fare is equivalent to about 2½ cents per mile. As a matter of fact, the selling fare into St. Louis is $1.84 in excess of the selling fare to Granite City.

Mr. Bryan: Although you can come from Granite City to St. Louis for 30 cents? (Note: This was later corrected to 35 cents, p. 175).

Mr. Versen: Come from Granite City to St. Louis for 30 cents? Cairo, Illinois, which is a town in the Mobile & Ohio statement on page 2, shows that for 152 miles the fare is $2.92 to East St. Louis, and East St. Louis basing fare is $3.75, which is used for the purpose of determining the selling fare to St. Louis. The selling fare to St. Louis is $4, being 25 cents over the basing fare to East St. Louis and $1.08 over the selling fare to East St. Louis.

Mr. Bryan: That 25 cents is for crossing the river?

Mr. Versen: For crossing the river.

1835 Mr. Bryan: Although it costs 25 cents to cross the river the difference in the rate is $1.08?

Mr. Versen: $1.08. This shows that not only are we obliged to pay 2½ cents a mile if we wish to travel between St. Louis and Illinois points, but in addition to 2½ cents per mile we are still plussed another 25 or 30 cents, as the case may be, from either East St. Louis or Granite City, the supposed expense of crossing the river. What we have said there with respect to those two points applies also throughout this exhibit, 2 cents per mile being the general rate observed in making the rates in Illinois, and for the purpose of determining rates into St. Louis they use 2½ cents per mile, or, in some cases, even more, and plus that. Atlanta, Illinois, is not shown in here, but the published passenger fare to Atlanta, Illinois, is $3.30. If necessary I can give the tariff references. It appears that the basis for the $3.30 rate from St. Louis to Atlanta is a fare of $1.80 from Granite City to Springfield. The distance from Springfield to Atlanta, Illinois, via the Chicago & Alton Railroad is 40 miles. They charge 3 cents per mile for that haul, or $1.20 for the 40 miles. Adding that to the $1.80 rate from Granite City to Springfield, gives them a total of $3.00. To that total they add still another arbitrary of 30 cents for crossing the river, making it $3.30 from St. Louis to Atlanta. I was also curious to know how

1836 the rate from St. Louis to Chicago was determined, being $7.50. The fare from Chicago to Granite City is but $5.50, and, adding to that the rate of the Terminal of 30 cents would make our rate $5.80, which was the rate formerly observed and in effect prior to November 1st, 1913 (December 1st, 1914). At that time they made rates into St. Louis on the basis of 2½ cents a mile and still plussed that rate, and now our rate is $7.50. The basis for the rate of $7.50 is this: $1.95, being the passenger fare of the Illinois Traction Company from St. Louis to Springfield, then they plus that rate, using the short-line mileage from Springfield to Chicago, 185 miles, at 3 cents per mile, which makes $5.55, plus that $1.95 from St. Louis to Springfield, makes the through rate of $7.50. I mention this to show that while we have all kinds of rates, they use a rate as much as 3 cents a mile in making rates to and from St. Louis. Therefore we have a 2-cents-per-mile rate to East St. Louis and to Granite City, 2½ cents a mile to East St. Louis and Granite City, making the St. Louis rate plus such other rates as may be used in determining the rates to and from St. Louis (pp.149-153). The rate, if you buy a ticket from St. Louis to Chicago, is $7.50. A ticket from St. Louis to Granite City costs 30 cents on the steam road, 5 cents on street car, and you can buy a ticket from Granite City to Chicago for $5.50. So, paying 30 cents from St. Louis to Granite City and $5.50 from Granite City to Chicago, $1.70 is saved (p. 153).

1837 The same situation is true going via East St. Louis, except the rate from Chicago to East St. Louis is slightly higher than from Chicago to Granite City. The rates between East St.

Louis and St. Louis 5 cents less than between Granite City and St. Louis. The result of this is that a great many passengers in going from St. Louis to Illinois points get off at East St. Louis or Granite City and purchase a ticket or go over to East St. Louis or Granite City by car or otherwise and board the train there. The same is true of passengers coming into St. Louis from Illinois points. They get off at Granite City or East St. Louis and repurchase tickets (p. 154). But any one desiring to check baggage through must purchase a through ticket and any one desiring through Pullman accommodations must purchase through ticket (p. 155). None of the increased passenger rates mentioned goes to the Terminal Railroad Association of St. Louis or its subsidiaries. Its rate remains the same and has not been changed since the increase in the interstate rate of December, 1914 (p. 153). Witness filed Exhibits 16 to 26, inclusive, and No. 31 (pp. 157 to 161), showing the passenger fares on all the carriers running from St. Louis into Illinois. He also filed Exhibit No. 27 (p. 162). That shows rates of passenger fares between St. Louis and points in Illinois with the mileage and the rates from Chicago to points in Illinois equi-distant,
1838 which exhibit is page 92 of Appendix hereto. For example, it shows the fare St. Louis to Barrow, Illinois, 74 miles, is $1.85. Chicago to Stewart, Illinois, 77 miles, $1.50. St. Louis to Woods, Illinois, 27 miles, 88 cents. Chicago to Downers Grove, 21 miles, 42 cents. The table on page 6 of the petition was prepared by the witness and was correct (p. 164). And his Exhibit No. 28 is a copy of that table (p. 165). The tables from pages 12 to 19, inclusive, of the petition were prepared by the witness and correctly refer to the tariffs (p. 165). His Exhibit No. 29 is the same as that statement (p. 166). It shows the advance in the passenger fares from St. Louis to Illinois points. There has not been any change in the conditions of travel or transportation between points in Illinois and between St. Louis and points in Illinois which did not exist prior to the spread in the rates, freight and passenger, becoming effective (p. 166). There is no difference as between service and conditions between St. Louis and Illinois points and those between points wholly in State of Illinois (p. 167). The passenger fare between St. Louis and East St. Louis is 25 cents. Between St. Louis and Granite City 35 cents (p. 175).

Cross-examination:

In going from St. Louis to Chicago and from Chicago to St. Louis the facilities are exactly the same. Service with respect to Pull-
man, dining-car accommodations and everything with re-
1839 spect to the equipment of the train is the same. The trains that leave St. Louis for Chicago go through Granite City and East St. Louis (pp. 199-209). Passenger fares from Illinois to St. Louis based upon the basing rate to East St. Louis plus the bridge arbitrary (p. 202). By reason of the present rates St. Louis is discriminated against in favor of Chicago and other Illinois points because the latter have an advantage (p. 201). Witness

stated that in his opinion the State rate of 2 cents per mile, whereas the interstate rate was 2½ cents plus the Terminal was a direct burden upon interstate commerce (p. 204). Exhibit No. 31 above mentioned is the Southern Railway Company's local tariff (p. 246).

K. F. NIEMOELLER, business manager of the associated retailers of St. Louis, formed to encourage out-of-town jobbers to trade at retail in St. Louis and to get them to come to St. Louis the association pays their railroad fare on the basis of a mile both ways for every dollar they spent up to the amount of their fare. After the fare is paid whatever excess purchases are made they get a discount of 1 per cent. That is extended to people outside of the 20-mile radius in all states (p. 321). We pay out about $30,000 a year, and a little over half goes to the people in Illinois. In illustrating how the rate usually works he gave an example: Take Litchfield, Illinois, 52 miles away, 49 miles from East St. Louis. Under the old rate we would pay a customer 2 cents a mile both ways from
1840 East St. Louis, 98 cents, and 50 cents bridge, $1.48. Under the new rate the customer would receive 2½ cents, or, taking 49 miles to East St. Louis, would be $2.45, and 50 cents, $2.95. To take another, I had a case come up just to-day, where a customer living in Butler, Illinois, just beyond Litchfield; if they buy a ticket through to St. Louis it is $1.58, 2½ cents to East St. Louis, plus the bridge. They can take a McKinley car, go to Granite City for a nickel, and it is 49 miles from Granite City, pay 98 cents, $1.03 from St. Louis by going to the trouble of riding the street car to Granite City and save 55 cents each way. Of course, we pay at the rate the customer pays. If the customer pays at the $1.58 rate, we pay at the $1.58 rate; if they pay the $1.03 rate, we pay at that rate (pp. 322-323). In checking a month's business of last year the expense of bringing the customer to St. Louis never ran over 3.55 per cent. Almost always 3.5 per cent on the sales. This year the expense has been running 3.56 and 3.57 per cent, and in August it was 3.68 per cent. So on $50,000 worth of business it cost under the old rates $1,750 and under the new rates $1,840, a difference of $90 on the month's business (p. 323). He has had occasion to observe that a great many passengers coming into St. Louis buy tickets to East St. Louis and Granite City and pay their street car fare or train fare into St. Louis (p. 324). He has trav-
eled between St. Louis and Illinois recently and the same
1841 trains serve intrastate and interstate passengers (p. 326). The witness explains the inconveniences to the interstate passenger to and from St. Louis (p. 327).

F. G. CUNNINGHAM, joint agent of the East St. Louis Relay Depot Passenger Association, agent of all carriers at the East St. Louis relay passenger station, having charge of the sale of all passenger mileage and Pullman tickets (p. 335). On all railroads operated through East St. Louis. There has been considerable increase in the sale of tickets since December 1, 1914 (p. 336). In the month of August, 1915, he sold 21,471 tickets from East St.

Louis to various Illinois points and in August, 1914, he sold 13,348 tickets. He gave the number of tickets sold at East St. Louis to Illinois points from March to July, 1914-1915: March, 1914, 12,170; 1915, 14,955; April, 1914, 13,581; April, 1915, 17,694; May, 1914, 14,222; May, 1915, 18,599; June, 1914, 14,260; June, 1915, 18,964; July, 1914, 15,662; July, 1915, 20,959. He had had occasion to observe and notice since December, 1914, that a great many people got off the trains at East St. Louis and bought tickets both to St. Louis and points in Illinois (p. 338). He gave a comparative statement of the sale of tickets from East St. Louis to St. Louis from March to August, 1914-1915 (p. 339): For the month of April, 1914, 160 bridge tickets; for the month of April, 1915, 400; for the month of May, 1914, 263; May, 1915, 350; 1842 June, 1914, 250; June, 1915, 450; July, 1914, 260; July, 1915, 450; August, 1914, 320; August, 1915, 500.

Cross-examination:

He explains the unit of tens running through his figures by the method of bookkeeping (p. 340). He is joint agent at East St. Louis for the 14 lines running in there (p. 341). Fourteen lines running from St. Louis through East St. Louis to Illinois points. He never checks baggage from East St. Louis unless the baggage is actually delivered at the station (p. 343). He explains the purchase by passengers of tickets at East St. Louis since December, 1914, and the increase of sales of tickets is due to the difference in fares, State and interstate (p. 345). His instructions are not to check any baggage on bridge ticket to Illinois points, but only when the baggage is actually delivered (p. 348). Of course there are a large number of tickets sold to points in Illinois on roads that are not going to Chicago (p. 360).

J. A. APPEL, Wabash agent at Granite City, since 1905. Selling tickets and handling baggage and checking and handling baggage (p. 377). He gives a comparison of the months' sale of tickets. December, 1913, 264; December, 1914 to August, 1915, to Illinois points and Indiana points. December, 1914, 517; January, 1914, 236; January, 1915, 429; February, 1914, 173; 1843 February, 1915, 453; March, 1914, 319; March, 1915, 523; April, 1914, 328; April, 1915, 618; May, 1914, 343; May, 1915, 621; June, 1914, 319; June, 1915, 604; July, 1914, 352; July, 1915, 739; August, 1914, 357, August, 1915, 698; and the following tickets were sold from Granite City to St. Louis for the same period: December, 1913, 47; December, 1914, 14; January, 1914, 19; January, 1915, 8; February, 1914, 17; February, 1915, 37; March, 1914, 58; March, 1915, 62; April, 1914, 32; April, 1915, 19; May, 1914, 22; May, 1915, 28; June, 1914, 27; June, 1915, 29; July, 1914, 20; July, 1915, 20; August, 1914, 13; August, 1915, 19. The Wabash train does not stop at Granite City long enough for a person coming from St. Louis to get off and get on again (p. 371).

Cross-examination:

There is no opportunity for a passenger to get off and buy a ticket at Granite City and get back on the same train (p. 372).

L. KOENIG, defendants' joint agent at Granite City for the Chicago and Alton and Chicago and Eastern Illinois and Big Four for over four years, and who has had occasion to observe the difference in the sale of tickets from Granite City to Illinois points since December 1, 1914 (p. 379). Gives comparative list of the sales of the tickets. December sales, 1913, 691 tickets; December, 1914, 907; January,
1914, 535; January, 1915, 803; February, 1914, 412; Feb-
1844 ruary, 1915, 660; March, 1914, 739; March, 1915, 100;
April, 1914, 731; April, 1915, 996; May, 1914, 638; May, 1915, 948; June, 1914, 559; June, 1915, 1040; July, 1914, 635; July, 1915, 1327; August, 1914, 675; August, 1915, 1172. This is Chicago and Alton. Chicago and Eastern Illinois is as follows: December, 1913, 27; December, 1914, 140; January, 1914, 21; January, 1915, 200; February, 1914, 22; February, 1915, 101; March, 1914, 61; March, 1915, 210; April, 1914, 18; April, 1915, 422; May, 1914, 30; May, 1915, 165; June, 1914, 44; June, 1915, 161; July, 1914, 38; July, 1915, 335; August, 1914, 37; August, 1915, 214. Sales of tickets on the Big Four for the same period is as follows: December, 1913, 526; December, 1914, 642; January, 1914, 399; January, 1915, 473; February, 1914, 298; February, 1915, 621; March, 1914, 412; March, 1915, 520; April, 1914, 447; April, 1915, 582; May, 1914, 614; May, 1915, 832; June, 1914, 510; June, 1915, 780; July, 1914, 503; July, 1915, 1,013; August, 1914, 566; August, 1915, 802. Had observed people coming to Granite City on street cars and buying tickets to Illinois points. Had noticed people getting off trains and buying tickets to St. Louis (p. 386).

J. B. LANNIGAN, assistant general passenger agent for the Illinois Central, has had several years' experience in the passenger business.
He offered maps and several statements, Exhibits 1 to 17, in-
1845 clusive (p. 718). Some of the interstate fares from St. Louis to Illinois points were increased May 1, 1914, and the others December 1, 1914. The fares from St. Louis to Illinois points and other Eastern points are generally on 2½-cent basis (p. 786). Exhibit 1 is a map of Illinois showing the points mentioned in the complaint as related to St. Louis (p. 789). Exhibit No. 2 shows the fares from St. Louis to typical points in Illinois, Indiana, Michigan and certain other States from March, 1906, to October 14, 1915. His Exhibit No. 2 shows the fares from St. Louis to typical stations in Illinois and certain States east from March, 1906, to October, 1915, and the reasons for changes in the passenger fares. The rates currently in effect (p. 790). The witness explains all of his exhibits at length. Exhibit 5 shows the fares between East St. Louis, Granite City and Madison and St. Louis as compared with typical stations in Illinois (p. 793). Exhibit No. 6 shows the combination of intrastate and interstate fares which are used to defeat interstate rates

and special attention is called to it (p. 794). The exhibit is page 93 of Appendix hereto. It first shows the cases mentioned in the complaint and it shows that St. Louis is unjustly discriminated against in the rates (p. 795). Exhibit 6-A shows that the Illinois 2-cent fare operates to discriminate in favor of Illinois commercial cities as against St. Louis (p. 796), and how it so operates is explained. Exhibit 6-A is page 94 of Appendix hereto.

1846 It shows that the distance from Chicago to Madison is 171 miles and the fare is $3.42. The fare for a passenger from Windsor, Illinois, to St. Louis, only 111 miles, would cost approximately the same, $3.44. In other words, Chicago is enabled by the lower passenger fares in Illinois to get into a more extensive territory by sixty miles. The witness gives further illustrations of this situation (p. 796). East St. Louis to Chicago $5.62, and from St. Louis to Chicago $7.50 (p. 797). Yet the passengers would ride on the same train. No. 9 shows the ticket sales one way, January and June, 1913-14-15, from stations in Illinois from and to St. Louis, East St. Louis, Granite City and Madison by eleven roads, showing a decrease in the sale of the interstate tickets. This exhibit shows that January, 1915, as compared with January, 1914, showed a decrease of sales of interstate tickets between St. Louis and Illinois points, amounting to 25,907, and a decrease compared with January, 1913, amounting to 20,862. It also shows that the percentage of ticket sales to and from St. Louis as compared with ticket sales from East St. Louis and Illinois points (East St. Louis, Madison and Venice) decreased from 71.80 of the whole to 52.45 of the whole. In other words, in January, 1913, the tickets to and from St. Louis represented 71.84 of the ticket sales between St. Louis and Illinois points and Madison, Granite City, Venice and Illinois points. In January, 1915, this percentage had dropped to 52.45 per cent. In

1847 June, 1915, it showed that it further dropped to 48.14 per cent (p. 800). It also demonstrates that the low Illinois rate actually controls interstate commerce and has diverted the passenger traffic from St. Louis to points on the east side of the river, and the sale of tickets of an interstate character has given way to the sale of intrastate tickets (p. 801). The decrease in the sales to St. Louis might indicate that Chicago is being enlarged; that the business has gone to Chicago (p. 804).

Cross-examination:

For a number of years prior to 1914 there was substantially a uniform relation between the rates to Illinois points equi-distant from Chicago and St. Louis (p. 827). Since the increase in the passenger rates there has not been any increase in the costs between St. Louis and Illinois points (p. 827). There has been no additional cost or burden on the carriers operating between St. Louis and the Illinois points which did not exist before. There was no increase in the charges of the Terminal Association between St. Louis and East St. Louis (p. 828). St. Louis is discriminated against in favor of Chicago and East St. Louis and other Illinois points by the fares, but

not on account of the service (p. 829). The witness, in speaking about discrimination, says such discrimination is undue dis-
1848 crimination and would not be there if the carriers could make their own adjustment. The fact that one can go further from Chicago into Illinois than from St. Louis into Illinois for the same fare increases the Chicago business territory (p. 829). Prior to this increase the passenger fares from St. Louis to Illinois points were made by adding the fare between St. Louis and the East Side to the Illinois intrastate rate and that addition was the only difference in the rates (p. 831). Witness quoted from the fourth section order No. 429, I. C. C. (p. 826). The character of all passenger trains serving East St. Louis and St. Louis is identical. The character of the trains of every kind that go to East St. Louis is identical with the kind that go to St. Louis (p. 838). Witness draws a deduction from table 16 that the interstate trains serve intrastate and interstate passengers with the same character of service; that the interstate trains are not used altogether by interstate passengers, but are used to a large degree by interstate and intrastate passengers—in fact, by a greater number of intrastate passengers than interstate passengers (pp. 847-848).

W. C. MAXWELL. When the Five Per Cent case was heard in Washington there was a very full discussion of the passenger rate situation and this particular situation in St. Louis was brought out and there are several pages of testimony showing that the rate could be made of $7.50 from St. Louis to Chicago against $5.70 from Granite City, and that while the I. C. C. had granted this
1849 increase in passenger rates to 2½ cents after a full hearing, their action would be largely nullified and there would be rank discriminations, and I believe there are today by the State rates (p. 551). Must have co-operation of the Illinois State Commission before the carriers can get the benefit of the freight rates or passenger fares authorized by the Interstate Commerce Commission. The unjust discrimination against St. Louis now existing by reason of the present situation should be remedied by an advance in the Illinois State rates. The present method of discrimination is particularly strong against Chicago from Michigan and from Indiana and from other States right on her border, and that is also true of St. Louis, which similarly suffers. Both places are rankly discriminated against to-day and there must be some leveling up. The burden cannot be continued to be placed on interstate business. There has got to be an adjustment in such a way that the intrastate business will bear its share (pp. 563-4).

Cross-examination:

Chicago is suffering from discrimination because of the intrastate rates in Indiana and Michigan, and St. Louis is suffering the same kind of discrimination with respect to the Illinois business (p. 564).
Chicago and St. Louis are absolutely up against it (p. 565).
1850 St. Louis is absolutely up against it. It has not a fair chance to bring people down here to trade (p. 565).

J. D. McNAMARA, general passenger agent of the Wabash and of many years' experience (p. 883). There is no greater relative expense to the carrier in coming to St. Louis as against East St. Louis or in operating between Chicago and Illinois points than there was before the increase (p. 901). Carriers pay just the same to the Terminal Association. It does not cost the carriers any more between St. Louis and East St. Louis than before the increase. Did not pay any more to the Terminal Association per passenger than they did before, and what they paid to the Terminal Association represents the difference in expense in operation interstate between St. Louis and Illinois points on the one side, and east-side points and Illinois points intrastate on the other side (p. 902). Prior to the change in interstate fares, the fare from Chicago to Granite City was $5.50 and 30 cents was added from Granite City to St. Louis; from Chicago to East St. Louis is was $5.62, plus 25 cents to St. Louis, and that difference—25 or 30 cents, or whatever it might be—represents the difference in conditions surrounding the service to St. Louis and the service to the east side of the river (p. 913). The charge for carrying a passenger from Chicago to a point 100 miles in Illinois is
1851 less than carrying a passenger from St. Louis to a point 100 miles into the State of Illinois, and there is no difference in service (p. 915). Witness thinks it is the rankest kind of discrimination the railroads are practicing today. A man gets on at St. Louis, going to Chicago, and pays $7.50, while if another man inconveniences himself and goes over to East St. Louis or Granite City on a street car he will get to Chicago for $5.65 or $5.55. Witness' observation is that 25 per cent of the passengers are coming from the east side going to Chicago and coming from Chicago, and there is certainly discrimination against the 75 per cent that are paying the $7.50 rate, and they ride on the same train. There is no excuse for the discrimination. There is no reason from a service standpoint whereby the carriers should haul the man out of Chicago cheaper than they haul the man out of St. Louis (pp. 915-916).

Between December 1, 1913, and September 30, 1914, there were 226 tickets sold on the Wabash from East St. Louis to Chicago; 610 from December 1, 1914, to September 30, 1915—an increase of 170 per cent.

The sale of tickets from Granite City to Chicago from December 1, 1913, to September 30, 1914, was 242 tickets; from December 1, 1914, to September 30, 1915, the sale was 2,370 tickets—an increase of 879 per cent.

One would be amazed at the people who go from St. Louis to East
1852 St. Louis or Granite City to save the difference in rate, or that come from Chicago and get out early in the morning at Granite City or East St. Louis to save the difference in the rate (pp. 916, 917, 918).

Passengers traveling with baggage cannot have their baggage checked to or from St. Louis unless their ticket is bought to that point (p. 918). So he goes over the river on one train with his baggage, perhaps has it taken off, has it re-checked and goes on. It

is an awful situation and there is a great deal of complaint about it (p. 919). There is something of the same situation at Keokuk.

S. G. HATCH, passenger traffic manager of the Illinois Central, of many years' experience in passenger business and acquainted with the issues in the proceedings (p. 936). Finds that passengers are being influenced from St. Louis to localities and commercial centers in Illinois by reason of the present rate situation. The company suffers from the burden placed upon the interstate fares by the Illinois state fares (p. 837). His company is forced to discriminate against St. Louis on account of the interstate fares being higher than state fares (p. 937). The situation is unsatisfactory. It is contrary to the accepted methods of passenger fare making in all witness' experience which usually have been made on the aggregate of the intermediate fares recognizing all of the state fares (p. 938).

G. J. CHARLTON, for defendants, passenger traffic manager of the Chicago & Alton. Has had many years' experience (p. 944). He admits there is a discrimination against St. Louis in favor of
1853 Chicago in the passenger fares from Illinois stations as a result of the increase in the interstate rate (p. 961).

Cross examination:

St. Louis being in the very unfortunate position of a border city and gets probably the worst of it (p. 950).

There is no reason for the discrimination, and it is not due to expense in service, but it is caused by the law. There is no change in the operating conditions or service since the increase (p. 951). The relative cost of operating in St. Louis as against Chicago is not materially different; the same units enter into the cost of operating each terminal, with the exception of the bridge charge in St. Louis, which does not apply in Chicago, but at Chicago, on the other hand, there are certain other facilities, such as elevated structures and others, and they are going to have a union station in Chicago that is going to cost $50,000,000 or $60,000,000, which "will make us (the carriers) sit up in a year or two" (p. 953). Traveling on the Alton Limited from Chicago to a point 150 miles in Illinois is cheaper than traveling on the same train to a point 150 miles from St. Louis into Illinois. The service is exactly the same and the trains are the same (p. 964).

W. H. RICHARDSON, for defendant, general passenger agent Chicago & Eastern Illinois for many years. Expert in passenger matters (p. 965). Confirms what the other witnesses testified to about rebuying at Granite City (p. 966).

1854 & 1855 Cross-examination:

The fare from St. Louis to a point in Illinois is higher than from Chicago to a point similarly distant from Illinois, whereas, the

service in each case is identical (p. 971). There has been relatively, no increased cost to the Chicago & Eastern Illinois in going between Granite City and St. Louis. The amount paid the Terminal Association has been the same ever since his road started to come into St. Louis (p. 973). His road runs passenger trains into Chicago 17 miles over the Western Indiana, for which it pays the Western Indiana (p. 979).

F. N. WESTERMAN, assistant general passenger agent of the Southern Railway of many years' experience in traffic department (p. 981). Two-cent passenger fare in Illinois undoubtedly discriminates against St. Louis (p. 985).

W. C. STITH: Merchants Bridge Terminal Association Tariff, I. C. C. No. 7, and Terminal Railroad Association Tariff No. 6 gives the tariff under which the companies haul the passenger equipment for railroads (p. 1693). He also refers to St. Louis Merchants Bridge Tariff, I. C. C. No. 11 (p. 1694). The charges mentioned to the railroad lines for transportation of passenger cars are the same now that they have been for a number of years (p. 1695). The revenue comes to the Terminal Association (p. 1696).

1856

APPENDIX.

1857

VERSEN EXHIBIT NO. 15—Page 1.

PASSENGER FARES—LOCAL AND BASING.

BETWEEN E. ST. LOUIS, ILL. AND	Mileage	Local Fare To & From E.St. Louis	Rate per Mile	Tariff Authority	Bas'g Fare To & From E.St. Louis	Rate per Mile	Tariff Authority	ST. LOUIS, MO. Mileage	Local Fare To & From St. Louis	Rate per Mile	Tariff Authority
Baltimore & Ohio Southwestern R. R.											
Lebanon, Ill.	22	42	2.	No. 1—I.P.U.C.27	54	2.5	I.C.C. 3199	25	79	3.16	I.C.C. 3199
Carlyle, Ill.	45	90	2.	No. 1—I.P.U.C.27	113	2.5	I.C.C. 3199	48	138	2.9	I.C.C. 3199
Bannister, Ill.	72	146	2.	No. 1—I.P.U.C.27	182	2.5	I.C.C. 3199	75	207	2.76	I.C.C. 3199
Flora, Ill.	93	186	2.	No. 1—I.P.U.C.27	234	2.5	I.C.C. 3199	96	259	2.7	I.C.C. 3199
Claremont, Ill.	122	244	2.	No. 1—I.P.U.C.27	305	2.5	I.C.C. 3199	125	320	2.56	I.C.C. 3199
Lawrenceville, Ill.	138	274	2.	No. 1—I.P.U.C.27	344	2.5	I.C.C. 3199	141	369	2.61	I.C.C. 3199
Chicago, Burlington & Quincy R. R.											
Woods, Ill.	25	50	2.	No. 8-A	63	2.52	I.C.C. 2582	28	88	3.14	I.C.C. 2582
Kemper, Ill.	44	88	2.	No. 8-A	113	2.56	I.C.C. 2582	47	138	2.93	I.C.C. 2582
Alsey, Ill.	75	150	2.	No. 8-A	160	2.15	I.C.C. 2582	78	185	2.37	I.C.C. 2582
Arenzville, Ill.	100	200	2.	No. 8-A	200	2.	I.C.C. 2582	103	225	2.18	I.C.C. 2582
Astoria, Ill.	127	254	2.	No. 8-A	254	2.	I.C.C. 2582	130	279	2.14	I.C.C. 2582
Epperson, Ill.	149	298	2.	No. 8-A	298	2.	I.C.C. 2582	152	323	2.12	I.C.C. 2582
Roseville, Ill.	170	340	2.	No. 8-A	340	2.	I.C.C. 2582	173	365	2.1	I.C.C. 2582
Alexis, Ill.	195	390	2.	No. 8-A	390	2.	I.C.C. 2582	198	415	2.09	I.C.C. 2582

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VERSEN EXHIBIT NO. 15—Page 2.

PASSENGER FARES—LOCAL AND BASING—Continued.

BETWEEN E. ST. LOUIS, ILL. AND	Mileage	Local Fare To & From E.St Louis	Rate per Mile	Tariff Authority	Bas'g Fare To & From E.St. Louis	Rate per Mile	Tariff Authority	ST. LOUIS, MO. Mileage	Local Fare To & From St. Louis	Rate per Mile	Tariff Authority
Chicago & Alton R. R.											
Plainview, Ill.....	44	94	2.1	No. 45—I.W.C.162	105	2.38	No. 46—I.C.C. 1236	47	130	2.76	No. 46—I.C.C. 1236
Virden, Ill.....	71	148	2.08	No. 45—I.W.C.162	156	2.1	No. 46—I.C.C. 1236	74	170	2.3	No. 46—I.C.C. 1236
Sherman, Ill.....	101	206	2.03	No 45—I.W.C.162	210	2.07	No. 46—I.C.C. 1236	104	230	2.21	No. 46—I.C.C. 1236
Athol, Ill.....	123	250	2.03	No. 45—I.W.C.162	280	2.27	No. 46—I.C.C. 1236	126	300	2.38	No. 46—I.C.C. 1236
Shirley, Ill.....	146	298	2.04	No. 45—I.W.C.162	340	2.31	No. 46—I.C.C. 1236	149	360	2.41	No. 46—I.C.C. 1236
Ballard, Ill.....	172	348	2.02	No. 45—I.W.C.162	415	2.41	No. 46—I.C.C. 1236	175	435	2.48	No. 46—I.C.C. 1236
Odell, Ill.....	197	398	2.02	No. 45—I.W.C.162	490	2.49	No. 46—I.C.C. 1236	200	510	2.55	No. 46—I.C.C. 1236
Braidwood, Ill.....	221	446	2.01	No. 45—I.W.C.162	560	2.53	No. 46—I.C.C. 1236	224	580	2.58	No. 46—I.C.C. 1236
Lemont, Ill.....	253	510	2.01	No. 45—I.W.C.162	655	2.58	No. 46—I.C.C. 1236	256	675	2.63	No. 46—I.C.C. 1236
Brighton Park, Ill...	273	552	2.02	No. 45—I.W.C.162	710	2.6	No. 46—I.C.C. 1236	276	730	2.64	No. 46—I.C.C. 1236

VERSEN EXHIBIT NO. 15—Page 3.

PASSENGER FARES—LOCAL AND BASING—Continued.

BETWEEN GRANITE CITY, ILL. AND	Mileage	Local Fare To & From Granite City	Rate per Mile	Tariff Authority	Bas'g Fare To & From Granite City	Rate per Mile	Tariff Authority	ST. LOUIS, MO. Mileage	Local Fare To & From St. Louis	Rate per Mile	Tariff Authority
Chicago & Eastern Illinois R. R.											
Ohlman, Ill.	68.5	156	2.	I.P.U.C.I. No.41	170	2.5	No. 27—I.C.C. 1389	77	205	2.66	No. 27—I. C.C.1389
Findlay, Ill.	96	192	2.	I.P.U.C.I. No.41	240	2.5	No. 27—I.C.C. 1389	105	275	2.61	No. 27—I.C.C. 1389
Bourbon, Ill.	122.5	244	2.	I.P.U.C.I. No.41	306	2.5	No. 27—I.C.C. 1389	131	341	2.6	No. 27—I.C.C. 1389
Block, Ill.	145.5	290	2.	I.P.U.C.I. No.41	363	2.5	No. 27—I.C.C. 1389	154	398	2.58	No. 27—I.C.C. 1389
Gerald, Ill.	167.5	334	2.	I.P.U.C.I. No.41	420	2.5	No. 27—I.C.C. 1389	176	455	2.58	No. 27—I.C.C. 1389
Bryce, Ill.	194.5	388	2.	I.P.U.C.I. No.41	489	2.52	No. 27—I.C.C. 1389	203	524	2.58	No. 27—I.C.C. 1389
Papineau, Ill.	217.5	434	2.	I.P.U.C.I. No.41	549	2.52	No. 27—I.C.C. 1389	226	484	2.14	No. 27—I.C.C. 1389
Goodenow, Ill.	247.5	494	2.	I.P.U.C.I. No.41	627	2.53	No. 27—I.C.C. 1389	256	662	2.58	No. 27—I.C.C. 1389
Kensington, Ill.	268.5	536	2.	I.P.U.C.I. No.41	675	2.5	No. 27—I.C.C. 1389	277	710	2.56	No. 27—I.C.C. 1389
Chicago, Peoria & St. Louis Ry. Co.											
Clifton Terrace, Ill.	27	49	1.85	I.P.U.C. No.69	50	1.84	No. 153—I.C.C.A-643	30	85	2.83	No. 153—I.C.C.A-643
Jerseyville, Ill.	42	74	1.76	I.P.U.C. No.69	85	2.02	No. 153—I.C.C.A-643	46	120	2.6	No. 153—I.C.C.A-643
Palmyra, Ill.	74.1	147	2.	I.P.U.C. No.69	168	2.27	No. 153—I.C.C.A-643	78.5	196	2.48	No. 153—I.C.C.A-643
Loami, Ill.	94	180	1.91	I.P.U.C. No.69	180	1.91	No. 153—I.C.C.A-643	98	210	2.14	No. 153—I.C.C.A-643
Cantrall, Ill.	119	213	1.79	I.P.U.C. No.69	216	1.81	No. 153—I.C.C.A-643	125	246	2.	No. 153—I.C.C.A-643
Kilbourne, Ill.	145	266	1.83	I.P.U.C. No.69	291	2.	No. 153—I.C.C.A-643	149	321	2.15	No. 153—I.C.C.A-643
Forest City, Ill.	170	292	1.71	I.P.U.C. No.69	320	1.88	No. 153—I.C.C.A-643	174	350	2.01	No. 153—I.C.C.A-643
Peoria, Ill.	196	310	1.58	I.P.U.C. No.69	340	1.73	No. 153—I.C.C.A-643	200	370	1.85	No. 153—I.C.C.A-643

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VERSEN EXHIBIT NO. 15—Page 4.

PASSENGER FARES—LOCAL AND BASING—Continued.

BETWEEN E. ST. LOUIS, ILL. AND	Mileage	Local Fare To & From E.St. Louis	Rate per Mile	Tariff Authority	Bas'g Fare To & From E.St. Louis	Rate per Mile	Tariff Authority	ST. LOUIS, MO. Mileage	Local Fare To & From St. Louis	Rate per Mile	Tariff Authority
Cleveland, Cincinnati, Chicago & St. Louis R. R.											
Livingston, Ill.....	33	66	2.	I.R.W. No. 53	82	2.45	No. 7—I.C.C. 3947	36	107	3.	No. 7—I.C.C. 3947
Hillsboro, Ill.....	54	108	2.	I.R.W. No. 53	133	2.46	No. 7—I.C.C. 3947	57	158	2.77	No. 7—I.C.C. 3947
Ohlman, Ill.....	74	146	1.97	I.R.W. No. 53	180	2.43	No. 7—I.C.C. 3947	77	205	2.66	No. 7—I.C.C. 3947
Shelbyville, Ill.....	98	194	1.97	I.R.W. No. 53	240	2.44	No. 7—I.C.C. 3947	101	265	2.62	No. 7—I.C.C. 3947
Mattoon, Ill.....	121	240	1.98	I.R.W. No. 53	298	2.46	No. 7—I.C.C. 3947	124	323	2.6	No. 7—I.C.C. 3947
Dudley, Ill.....	150	298	1.98	I.R.W. No. 53	370	2.45	No. 7—I.C.C. 3947	153	395	2.58	No. 7—I.C.C. 3947
Illinois Central R. R.											
Marine, Ill.....	26	52	2.	Local C-1	65	2.5	No. C-2—I.C.C.A-4331	29	90	3.1	No. C-2—I.C.C.A-4331
Mt. Olive, Ill.....	46	86	1.86	Local C-1	105	2.28	No. C-2—I.C.C.A-4331	49	125	2.55	No. C-2—I.C.C.A-4331
Farmersville, Ill.....	72	138	1.91	Local C-1	175	2.43	No. C-2—I.C.C.A-4331	75	195	2.6	No. C-2—I.C.C.A-4331
Springfield, Ill.....	99	192	1.92	Local C-1	190	1.91	No. C-2—I.C.C.A-4331	102	210	20.5	No. C-2—I.C.C.A-4331
Mt. Pulaski, Ill.....	121	240	2.	Local C-1	265	2.19	No. C-2—I.C.C.A-4331	124	285	2.29	No. C-2—I.C.C.A-4331
Louisville & Nashville R. R.											
Belleville, Ill.....	14	28	2.	G.P.D.2597	35	2.5	I.C.C. 3775	17	60	3.52	I.C.C. 3775
Nashville, Ill.....	49	98	2.	G.P.D.2597	123	2.51	I.C.C. 3775	52	148	2.84	I.C.C. 3775
Mt. Vernon, Ill.....	76	152	2.	G.P.D.2597	189	2.48	I.C.C. 3775	79	214	2.7	I.C.C. 3775
Enfield, Ill.....	114	228	2.	G.P.D.2597	285	2.5	I.C.C. 3775	117	310	2.64	I.C.C. 3775
Carmi, Ill.....	124	246	2.	G.P.D.2597	309	2.49	I.C.C. 3775	127	334	2.62	I.C.C. 3775

VERSEN EXHIBIT NO. 15—Page 5.

PASSENGER FARES—LOCAL AND BASING—Continued.

BETWEEN E. ST. LOUIS, ILL. AND	Mileage	Local Fare To & From E.St. Louis	Rate per Mile	Tariff Authority	Bas'g Fare To & From E.St. Louis	Rate per Mile	Tariff Authority	Mileage	Local Fare To & From St. Louis	Rate per Mile	Tariff Authority
								ST. LOUIS, MO.			
Mobile & Ohio R. R. Co.											
Waterloo, Ill.	23	48	2.	No. E-1—I.R.C.S	60	2.6	No. 11—I.C.C. 1231	26	85	3.26	No. 11—I.C.C. 1231
Sparta, Ill.	54	108	2.	No. E-1—I.R.C.S	140	2.59	No. 11—I.C.C. 1231	57	165	2.89	No. 11—I.C.C. 1331
Ava, Ill.	75	152	2.	No. E-1—I.R.C.S	190	2.53	No. 11—I.C.C. 1231	78	215	2.75	No. 11—I.C.C. 1231
Murphysboro, Ill.	90	168	1.8	No. E-1—I.R.C.S	215	2.38	No. 11—I.C.C. 1231	93	240	2.58	No. 11—I.C.C. 1231
Mill Creek, Ill.	125	238	1.9	No. E-1—I.R.C.S	330	2.64	No. 11—I.C.C. 1231	128	330	2.57	No. 11—I.C.C. 1231
Cairo, Ill.	152	292	1.92	No. E-1—I.R.C.S	375	2.46	No. 11—I.C.C. 1231	155	400	2.58	No. 11—I.C.C. 1231
St. Louis, Iron Mountain & Southern Ry.											
Warnock, Ill.	20	40	2.	No. 00-1	60	3.	No. 0-2—I.C.C. 4839	23	85	3.69	No. 0-2—I.C.C. 4839
Prairie du Rocher, Ill.	47	94	2.	No. 00-1	141	3.	No. 0-2—I.C.C. 4839	50	166	3.32	No. 0-2—I.C.C. 4839
Chester, Ill.	66	132	2.	No. 00-1	201	3.04	No. 0-2—I.C.C. 4839	69	226	3.27	No. 0-2—I.C.C. 4839
Cave Valley, Ill.	97	188	1.93	No. 00-1	233	2.4	No. 0-2—I.C.C. 4839	100	258	2.58	No. 0-2—I.C.C. 4839
Gale, Ill.	123	246	2.	No. 00-1	317	2.57	No. 0-2—I.C.C. 4839	126	342	2.71	No. 0-2—I.C.C. 4839
Klondyke, Ill.	148	288	1.94	No. 00-1	375	2.53	No. 0-2—I.C.C. 4839	151	400	2.64	No. 0-2—I.C.C. 4839
Cairo, Ill.	152	292	1.92	No. 00-1	375	2.46	No. 0-2—I.C.C. 4839	155	400	2.58	No. 0-2—I.C.C. 4839
Southern Railway Co.—West. Dist.											
Grassland, Ill.	22	44	2.	Intra. Trf. No.1	55	2.5	Inter.Local—I.C.C.3293	25	80	3.2	West.Dist.Lo.I.C.C.3293
Posey, Ill.	50	100	2.	Intra. Trf. No.1	124	2.48	Inter.Local—I.C.C.3293	53	149	2.81	West.Dist.Lo.I.C.C.3293
Dix, Ill.	75	152	2.	Intra. Trf. No.1	182	2.42	Inter.Local—I.C.C.3293	78	207	2.65	West.Dist.Lo.I.C.C.3293
Keenes, Ill.	99	190	1.91	Intra. Trf. No.1	227	2.29	Inter.Local—I.C.C.3293	102	252	2.47	West.Dist.Lo.I.C.C.3293
Golden Gate, Ill.	123	240	1.95	Intra. Trf. No.1	290	2.35	Inter.Local—I.C.C.3293	126	315	2.5	West.Dist.Lo.I.C.C.3293
Mt. Carmel, Ill.	148	296	2.	Intra. Trf. No.1	355	2.39	Inter.Local—I.C.C.3293	151	380	2.51	West.Dist.Lo.I.C.C.3293

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VERSEN EXHIBIT NO. 15—Page 6.

PASSENGER FARES—LOCAL AND BASING—Continued.

BETWEEN	E. ST. LOUIS, ILL.						ST. LOUIS, MO.			
AND	Mileage	Local Fare To & From E.St. Louis	Rate per Mile	Tariff Authority	Bas'g Fare To & From E.St. Louis	Rate per Mile	Tariff Authority	Mileage	Local Fare To & From St. Louis	Rate per Mile	Tariff Authority
Toledo, St. Louis & Western R. R.											
Fruit, Ill.	23	46	2.	I.W.C. No. 29	58	2.52	No. 9—I.C.C. 1402	26	83	3.19	No. 9—I.C.C. 1402
Panama, Ill.	47	94	2.	I.W.C. No. 29	117	2.51	No. 9—I.C.C. 1402	50	142	2.84	No. 9—I.C.C. 1402
Ramsey, Ill.	72	144	2.	I.W.C. No. 29	180	2.5	No. 9—I.C.C. 1402	75	205	2.73	No. 9—I.C.C. 1402
Stewardson, Ill.	101	202	2.	I.W.C. No. 29	253	2.5	No. 9—I.C.C. 1402	104	278	2.67	No. 9—I.C.C. 1402
Lerna, Ill.	123	246	2.	I.W.C. No. 29	307	2.49	No. 9—I.C.C. 1402	126	332	2.63	No. 9—I.C.C. 1402
Oakland, Ill.	147	294	2.	I.W.C. No. 29	364	2.47	No. 9—I.C.C. 1402	150	389	2.59	No. 9—I.C.C. 1402
Ridge Farm, Ill.	173	346	2.	I.W.C. No. 29	380	2.19	No. 9—I.C.C. 1402	176	405	2.29	No. 9—I.C.C. 1402
Vandalia R. R. Co.											
Troy, Ill.	18	36	2.	I.P.U.C. No. 1	46	2.55	I.C.C. 1034	21.3	71	3.38	I.C.C. 1034
Greenville, Ill.	48.2	96	2.	I.P.U.C. No. 1	121	2.52	I.C.C. 1034	51.5	146	2.86	I.C.C. 1034
Brownstown, Ill.	74.5	150	2.	I.P.U.C. No. 1	187	2.52	I.C.C. 1034	77.8	212	2.75	I.C.C. 1034
Effingham, Ill.	97.9	196	2.	I.P.U.C. No. 1	245	2.52	I.C.C. 1034	101.2	270	2.67	I.C.C. 1034
Greenup, Ill.	120.2	240	2.	I.P.U.C. No. 1	301	2.5	I.C.C. 1034	123.5	326	2.65	I.C.C. 1034
Marshall, Ill.	148	296	2.	I.P.U.C. No. 1	369	2.49	I.C.C. 1034	151	394	2.6	I.C.C. 1034

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VERSEN EXHIBIT NO. 15—Page 7.

PASSENGER FARES—LOCAL AND BASING—Continued.

BETWEEN	E. ST. LOUIS, ILL.							ST. LOUIS, MO.			
AND	Mileage	Local Fare To & From E. St. Louis	Rate per Mile	Tariff Authority	Bas'g Fare To & From E. St. Louis	Rate per Mile	Tariff Authority	Mileage	Local Fare To & From St. Louis	Rate per Mile	Tariff Authority
					Wabash R. R.						
Edwardsville, Ill.....	20	36	1.8	Intra.8-C-IPUC 54	40	2.	No. 15-A—I.C.C.4014	23	65	2.82	No. 15-A—I.C.C.4014
Mt. Olive, Ill.....	41	82	2.	Intra.8-C-IPUC 54	100	2.43	No. 15-A—I.C.C.4014	44	125	2.84	No. 15-A—I.C.C.4014
Palmer, Ill.....	73	146	2.	Intra.8-C-IPUC 54	175	2.39	No. 15-A—I.C.C.4014	76	200	2.63	No. 15-A—I.C.C.4014
Blue Mound, Ill.....	96	192	2.	Intra.8-C-IPUC 54	245	2.55	No. 15-A—I.C.C.4014	99	270	2.72	No. 15-A—I.C.C.4014
Cerro Gordo, Ill.....	122	244	2.	Intra.8-C-IPUC 54	300	2.45	No. 15-A—I.C.C.4014	125	325	2.6	No. 15-A—I.C.C.4014
Galesville, Ill.....	147	294	2.	Intra.8-C-IPUC 54	360	2.44	No. 15-A—I.C.C.4014	150	385	2.56	No. 15-A—I.C.C.4014
Gibson, Ill.....	171	340	2.	Intra.8-C-IPUC 54	415	2.42	No. 15-A—I.C.C.4014	174	440	2.52	No. 15-A—I.C.C.4014
Wing, Ill.....	196	390	2.	Intra.8-C-IPUC 54	480	2.44	No. 15-A—I.C.C.4014	199	505	2.53	No. 15-A—I.C.C.4014
Essex, Ill.....	223	440	2.	Intra.8-C-IPUC 54	555	2.48	No. 15-A—I.C.C.4014	226	580	2.56	No. 15-A—I.C.C.4014
Manhattan, Ill.....	244	486	2.	Intra.8-C-IPUC 54	610	2.5	No. 15-A—I.C.C.4014	247	635	2.57	No. 15-A—I.C.C.4014
Ashburn, Ill.....	271	542	2.	Intra.8-C-IPUC 54	690	2.54	No. 15-A—I.C.C.4014	274	715	2.6	No. 15-A—I.C.C.4014

(Here follows Versen Exhibit No. 27—Page 1, marked page 1864.)

VERSEN EXHIBIT NO. 27—Page 1.

PASSENGER RATES FROM ST. LOUIS VS. CHICAGO TO ILLINOIS POINTS FOR EQUI-DISTANCE.

Chicago, Burlington & Quincy R. R. Co.

FROM	TO	Miles	Fare	Rate Per Mile	Tariff Authority
St. Louis, Mo.	Woods, Ill.	27	88	3.25	No. 8-A, I. C. C. 2582.
Chicago, Ill.	Downers Grove, I.	21	42	2.	No. 5-B, I. C. C. 2915.
St. Louis, Mo.	Rockbridge, Ill.	52	148	2.84	No. 8-A, I. C. C. 2582.
Chicago, Ill.	Big Rock, Ill.	50	100	2.	No. 9-A, I. C. C. 2583.
St. Louis, Mo.	Barrow, Ill.	74	185	2.5	No. 8-A, I. C. C. 2582.
Chicago, Ill.	Steward, Ill.	77	150	2.	No. 9-A, I. C. C. 2583.

Chicago & Eastern Illinois R. R.

St. Louis, Mo.	Findlay, Ill.	105	275	2.66	I. C. C. 1389.
Chicago, Ill.	Reilly, Ill.	104	206	2.	I. P. U. C. No. 41.
St. Louis, Mo.	West Ridge, Ill.	141	368	2.61	I. C. C. 1389.
Chicago, Ill.	Bongard, Ill.	140	280	2.80	I. P. U. C. No. 41.
St. Louis, Mo.	Bryce, Ill.	202	524	2.59	I. C. C. 1389.
Chicago, Ill.	Pana, Ill.	205	400	2.	I. P. U. C. No. 41.

Chicago & Alton R. R. Co.

St. Louis, Mo.	Godfrey, Ill.	31	85	2.74	No. 46, I. C. C. 1236.
Chicago, Ill.	Lemont, Ill.	25	50	2.	No. 45, I. W. C. No. 162.
St. Louis, Mo.	Maucopin, Ill.	52	135	2.59	No. 46, I. C. C. 1236.
Chicago, Ill.	Wilmington, Ill.	52½	106	2.	No. 45, I. W. C. No. 162.
St. Louis, Mo.	Auburn, Ill.	87	180	2.22	No. 46, I. C. C. 1236.
Chicago, Ill.	Nevada, Ill.	80	160	2.	No. 45, I. W. C. No. 162.

Illinois Central R. R. Co.

St. Louis, Mo.	Mont, Ill.	20	69	3.45	L. P. T. C. No. 2, I. C. C. 4331.
Chicago, Ill.	Harvey, Ill.	20	38	2.	No. C-1, I. C. C. 2976.
St. Louis, Mo.	Thomasville, Ill.	79	195	2.46	No. C-2, I. C. C. 4331.
Chicago, Ill.	Gilman, Ill.	80	160	2.	No. C-1, I. C. C. 2976.

Wabash R. R.

St. Louis, Mo.	Carpenter, Ill.	28	80	2.1	I. C. C. 4014.
Chicago, Ill.	Alpine, Ill.	27	54	2.	I. P. U. C. No. 54.
St. Louis, Mo.	Honey Bend, Ill.	58	155	2.67	I. C. C. 4014.
Chicago, Ill.	Essex, Ill.	50	120	2.	I. P. U. C. No. 54.
St. Louis, Mo.	Willeys, Ill.	90	240	2.26	I. C. C. 4014.
Chicago, Ill.	Wing, Ill.	87	176	2.	I. P. U. C. No. 54.

Fares are shown in cents.

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1865 LANIGAN EXHIBIT No. 6—Page 1.

Combination of Intrastate and Interstate Fares Used to Defeat Through Interstate Fares—Typical Cases.

1866 LANIGAN EXHIBIT No. 6-A—Page 1.

Exhibit Showing Discrimination Against St. Louis and in Favor of Chicago.

1867 Before the Interstate Commerce Commission.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS, Complainants,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY and Forty-two Others, Respondents; East Side Manufacturers Association, Industrial Association of Keokuk, Chicago Association of Commerce, State Public Utilities Commission of Illinois, State of Illinois and the People of the State of Illinois, Interveners.

Brief and Argument for Respondents.

Concerning Unjust Discrimination Against Interstate Commerce Between St. Louis and Points in Illinois and Undue Preference in Favor of Intrastate Commerce Between Points in Illinois, as Applied to Both Passenger Traffic and Freight Traffic.

A. P. Humburg, C. C. Wright, C. B. Cardy, N. S. Brown, R. B. Scott, Garrard Winston, E. S. Ballard, D. P. Connell, E. C. Kramer, R. Walton Moore, John G. Williams, N. W. Proctor, Wm. Burger, Jr., O. W. Dynes, T. J. Norton, J. M. Elliott, F. G. Wright, Attorneys for Respondents.

Blewett Lee, R. V. Fletcher, Edward M. Hyzer, H. T. Dick, J. L. Minnis, C. M. Dawes, S. H. Strawn, O. E. Butterfield, Edward Barton, H. L. Stone, Burton Hanson, H. G. Herbel, of Counsel for Respondents.

Chicago, January 15, 1916.

1868 *Contents.*

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Part I. Statement.

1878 Before the Interstate Commerce Commission.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS, Complainants,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY AND Forty-two Others, Respondents, East Side Manufacturers Association, Industrial Association of Keokuk, Chicago Association of Commerce, State Public Utilities Commission of Illinois, State of Illinois and the People of the State of Illinois, Interveners.

Brief and Argument for Respondents.

1879 *Section 2. Appearances.*

At the hearing of evidence before Examiner-Attorney August G. Gutheim in St. Louis, Mo., on September 15-16 and October 14-20, 1915, there appeared for the complainants E. P. Bryan and S. H. West; for interveners, H. C. Barlow for Chicago Association of Commerce, R. W. Ropiequet for East Side Manufacturers' Association, Clifford Thorne for Industrial Association of Keokuk, Timothy J. Mullen and H. M. Slater for State Public Utilities Commission of Illinois, and F. E. Dempsey for State of Illinois and the People of the State of Illinois, and there appeared on behalf of the respondents, A. P. Humburg, C. C. Wright, N. S. Brown, C. B. Cardy, D. P. Connell, R. B. Scott, R. Walton Moore, E. C. Kramer, John G. Williams, N. W. Proctor, and William Burger, Jr.

1880 *Section 4. Interveners and Their Contentions.*

(a) Keokuk Industrial Association of Keokuk, Iowa, by Clifford Thorne.

The following statement was made by Clifford Thorne near the conclusion of the hearing of evidence:

Mr. Thorne: I have a very brief statement to make. The Keokuk Industrial Association takes the position that the intrastate Illinois rates should not be raised. However, if after full hearing the Interstate Commerce Commission grants relief in this case to the City of St. Louis, by removing the present so-called 5 per cent. variation or discrimination in rates as between St. Louis and Illinois points, then the Keokuk Industrial Association takes the position that the
1881 same relief should be granted to Keokuk in this proceeding without the necessity of bringing a separate action, or introducing evidence in addition to that already offered. It is my understanding that no party to this proceeding objects to that being done

for Keokuk, if it is done for St. Louis. On that condition we will rest, so far as the Keokuk Industrial Association is concerned. (1700-2).

1882 *Part II. Passenger Traffic.*

A. Complainants' Evidence Concerning Passenger Traffic.

Section 6. In General. Evidence of Versen, Roth and Niemoeller.

It does not show that the present interstate passenger fares between St. Louis and points in Illinois are unreasonable.

Mr. A. F. VERSEN, Industrial Commissioner and Assistant Traffic Commissioner for complainant, testified: The passenger tariffs became effective December 1, 1914, and when we found that those rates were to be advanced into St. Louis and that the old basis would be departed from we also filed a protest with the Interstate Commerce Commission requesting the suspension of these advances to St. Louis. When I say to St. Louis I mean, of course, to and from St. Louis, because the rates apply between, not only as to passenger, but as to freight as well.

The action of the Commission was the same as to passenger fares (as freight rates); they refused to suspend, without prejudice (however) to the filing of a formal complaint. (95)

Those of Mr. Versen's exhibits which relate to passenger fares are Nos. 15, 31, 27, 28 and 29, and they are printed at pages 85 to 92, inclusive, in the appendix to the complainants' brief. They and his evidence abstracted at pp. 88-95 of complainants' brief show in substance that the fares applied intrastate-Illinois are 2 cents per passenger per mile, while those in effect since December 1, 1914, interstate between St. Louis and points in Illinois are 2½ cents per passenger per mile plus the bridge tolls of 25 cents when the crossing is at East St. Louis and 30 cents when it is at Granite City; that prior to December 1, 1914, the fare between St. Louis and Chicago was $5.50 plus 30 cents bridge toll when crossing at Granite
1883 City and 25 cents when crossing at East St. Louis, and that since the advance in interstate fares on December 1, 1914, to the basis of 2½ cents per passenger per mile, the fare is $7.50, which includes the bridge tolls; that "there have been no changes in the condition of travel or transportation between points in Illinois and between St. Louis and points in Illinois which did not exist prior to the spread" in fares effective December 1, 1914; that in going from St. Louis to Chicago and from Chicago to St. Louis the facilities and service are exactly the same; and that "in his opinion the state rate of 2 cents per mile whereas the interstate rate was 2½ cents plus the terminals was (is) a direct burden upon interstate commerce." (P. 95 complainants' brief). But, neither Mr. Versen nor anyone else submitted any evidence that said interstate fare of 2½ cents per passenger per mile is unreasonable.

Mr. Humburg: Is the service by the carriers with respect to Pullman accommodations and dining car accommodations and every thing that goes with the equipment of the passenger trains different or better when you go from St. Louis to Chicago than they are when you come from Chicago to St. Louis?

Mr. Versen: I do not know of any difference.

Mr. Humburg: They carry in those trains interstate passengers as well as intrastate passengers?

Mr. Versen: Yes, sir; both. (199-200).

Mr. Humburg: Mr. Wright desires to ask some questions about passenger fares.

Mr. C. C. Wright: I might say before that, I was appointed a member of this committee because of my familiarity with the passenger matters. I am not familiar with the freight matters and my examination will be limited purely to the passenger matters.

I heard your testimony yesterday, Mr. Versen, with relation to discrimination worked against St. Louis by passenger fares.
1884 In what way do you think that there is discrimination by a lower passenger fare in Illinois as against East St. Louis?

Mr. Versen: In my judgment the discrimination exists because the State of Illinois should, after all, be treated as a part of the United States, and St. Louis, being immediately across the Mississippi River, opposite the border lines of the State of Illinois, should not make any material difference in my judgment. If a two-cent fare is exacted of passengers traveling between points in Illinois, and particularly between Chicago and points in Illinois, our strongest competitor for the traffic in the State of Illinois, in my judgment there certainly should not be exacted any greater charge for passengers traveling to and from St. Louis. As it is, it seems to me that the passengers traveling to and from St. Louis bear an undue burden because of this very condition, in being obliged to pay one-half cent in excess of the mileage exacted from passengers traveling between Chicago and other points in Illinois, and in addition to that being subjected to a charge for crossing the river.

Mr. C. C. Wright: Do the merchants dealing with your St. Louis jobbers come into St. Louis to buy goods?

Mr. Versen: They do, yes, sir, and we have had instances where the merchants of St. Louis have complained because of the discrimination against St. Louis in favor of Chicago.

Mr. C. C. Wright: And that would apply to any other jobbing point with which they compete, I suppose, the same condition?

Mr. Versen: They do, yes, sir.

Mr. C. C. Wright: Is it true that there are pleasure seekers coming to St. Louis on interstate rates from Illinois, excursionists, and people just simply to visit the city?

Mr. Versen: Yes, sir.

Mr. Wright: Do the passengers from East St. Louis into Illinois points and the passengers from St. Louis ride on the same train?

Mr. Versen: Yes, sir.

Mr. C. C. Wright: If the state passenger rates are lower than the interstate passenger rates what is the effect upon the interstate com-

merce by maintaining it? Is it in your opinion a burden
1885 on interstate commerce, maintaining that? Is that your contention, that it is a burden on interstate commerce? (203)

Mr. Versen: My contention is that the exaction of a 2½ cent fare to St. Louis and plussing that, or even the 2½ cent fare alone, aside from any plussing charge for crossing the river, is placing an undue burden upon travel to and from St. Louis, being interstate, as against travel between points in Illinois being intrastate. (203-4)

Concerning Versen's Exhibit 15, relating to passenger tariffs and distances, Mr. Lanigan testified: That exhibit shows a number of passenger fares and distances, and we find that the distances do not altogether check with the distances used by the carriers in establishing passenger fares. These appear to be distances taken from freight tariffs, whereas the carriers in establishing passenger fares generally use the distances between the passenger stations. Changes are numerous and material because the basis of distance is wrong. Lanigan Exhibit 19, shows the true situation. (821)

Mr. Geo. A. Roth, President of the Adam Roth Grocery Company, testified: I had an experience; the fare from St. Louis to Chester, Ill., is $2.26 and the return fare from Chester to East St. Louis is 60 or 80 cents less. (89)

Mr. K. F. Niemoeller testified: I am Business Manager of the Associated Retailers, which is an organization formed to encourage out of town jobbers to trade at retail in St. Louis. To get them to come to St. Louis we pay their railroad fare on the basis of a mile both ways for every dollar they buy up to the amount of their fare. After the fare is paid on whatever excess purchases are made they get a discount of one per cent. That is extended to people outside St. Louis and outside of a 20 mile radius in all states. (321) Most of our customers come from within a radius of 100 miles. (331)

We pay out a total of about $30,000 per year; about one-half goes to the people in Illinois. Under the old rate we would pay to the customer at the rate of 2 cents per mile, and under the new rate 2½ cents per mile. (322)

Last year our expense never ran over 3.55 per cent. of the goods
bought. In August this year it ran up to 3.68 per cent. To
1886 illustrate: $50,000 worth of business would cost us under the old plan $1,750, and under the new, $1,840, a difference of $90 on a month's business. (323)

Mr. Bryan: Have you had any occasion to observe whether the passengers coming to St. Louis have ceased to any extent to buy tickets to and from St. Louis and buy them to east side points, and then buy them across the river?

Mr. Niemoeller: Yes, sir; a great many people buy tickets to East St. Louis and pay 10 cents on the street car or 25 cents on the train, or if they come in on the Big Four or Wabash and get off at Granite City on the local train, and pay five cents from Granite City—a great many do that. (324) That situation has been noticeable since December, 1914.

We refund one mile of railroad fare both ways for every dollar's worth of goods a customer buys. (325)

Mr. Humburg: Was it the same train serving interstate and intrastate passengers on the trip you made from St. Louis to Butler, Ill., and return?

Mr. Niemoeller: Yes, sir.

Mr. Humburg: Do you find that this conflict between state and interstate fares is a matter of inconvenience to the public of St. Louis?

Mr. Niemoeller: Why, yes. When they want to go to Illinois they are put to the trouble of going to Granite City for a nickel, and if they have baggage they have got to pay the interstate fare to get the baggage on the train. If they have not baggage they go to Granite City or East St. Louis and pay the 2-cent fare from Granite City or East St. Louis wherever they go. (376)

Mr. Humburg: Prior to 1907 you had passenger fares no higher than the interstate fares you now have to and from St. Louis?

Mr. Niemoeller: Yes, sir.

Mr. Humburg: But after 1907, when they got lower rates in Illinois, you got lower rates from St. Louis?

Mr. Niemoeller: Right.

Mr. Humburg: That continued until the interstate fares were advanced (in 1914)?

1887 Mr. Niemoeller: Yes, sir.

Mr. Humburg: And the state fares were not advanced?

Mr. Niemoeller: That is right (326).

Mr. Humburg: And the disparity arises from the advancing of the one and the not going up of the other?

Mr. Niemoeller: That is right (327–8).

Section 7. Interstate Fares Between St. Louis and Points in Illinois Are Defeated by Use of Intrastate Fares in Interstate Travel.

The evidence submitted by Cunningham, Appel and Koenig shows abnormal increases in sales of tickets for transportation from East St. Louis and Granite City to points in Illinois since interstate fares between St. Louis and points in Illinois were advanced with no like advance between points in Illinois, as the result of the circumventing of interstate fares.

(*a*) Cunningham's Direct Evidence.

Mr. F. G. CUNNINGHAM testified: I am Joint Agent of the East St. Louis Relay Depot Passenger Association. I have been served with a subpoena. I have been Agent at East St. Louis for four years and have charge of the sales of all railroad tickets, mileage books and Pullman tickets at the East St. Louis Relay Station and I have also charge of the baggage interchange at this point, for all of the rail lines operating from East St. Louis, viz., B. & O. S. W., C. & A., C., B. Q., Big Four, New York Central, St. Louis Southwestern, Illinois Central, L. & N., M. & O., Southern Railway, Iron Mountain, T. L. & W., Vandalia and Wabash.

There has been a considerable increase in the sale of tickets from East St. Louis to Illinois points since December 1, 1914. We sold from East St. Louis during August, 1915, to various points in the State of Illinois, 21,471 tickets. For the same month last year, August, 1914, we sold from East St. Louis to points in the
1888 State of Illinois by all lines 13,348 tickets, an increase there of something roughly over about 8,000 tickets (337).

On behalf of these roads we sold from East St. Louis to points in Illinois during the months named below tickets as follows:

	1914.	1915.
March	12170	14933
April	13581	17694
May	14222	18599
June	14260	18964
July	15662	20959
August	13348	21471

More people are coming to our station to buy each month in proportion to the previous month (338).

Mr. Bryan: Have you had any occasion to notice whether people get off trains and buy tickets for points in Illinois—buy tickets to East St. Louis, and then get off the train and buy tickets to points in Illinois?

Mr. Cunningham: Yes, sir; they do that regularly. I would judge that 50 per cent. come over to the Union Station, buy a bridge ticket to East St. Louis, and then while the train is at our station rebuy to points in Illinois, and the other 50 per cent. either walk the bridge or come over on the street car.

Mr. Bryan: Have you had occasion to observe whether the passengers coming in get off and buy tickets going to St. Louis?

Mr. Cuningham: Yes, sir; they do that. If you care to, I have some figures showing the increase in our sale of bridge tickets from East St. Louis to St. Louis.

We sold from East St. Louis to St. Louis bridge tickets as follows for the months named:

	1914.	1915.
March	155	400
April	160	400
May	263	350
June	250	450
July	260	450
August	320	500

People are now to a much greater extent than prior to 1914
1889 buying tickets at East St. Louis for Illinois points and buying at East St. Louis to come across the bridge, getting off the train coming in from Illinois (340).

The reason these figures end in units of tens is the fact that about a year ago the style of ticket was changed. We are now given a block of ten tickets with only one stub. That ticket is kept in the

ticket clerk's drawer, representing $2.50. He does not report that ticket as sold until he sells the entire book; but there is only one stub representing the ten tickets. In other words, he does not turn in the stub of that ticket until he sells the 10 coupons, and that explains why they always figure even. I am acting as joint agent for the 14 lines I have named at the Relay Passenger Station in East St. Louis (341).

(*b*) Cunningham's Cross-examination.

Mr. Cunningham testified further on cross-examination: We make no attempt in East St. Louis to check baggage until the baggage is delivered at our depot. Then, the passenger or the owner buys a ticket, goes to our baggage room and is given a baggage check covering the transportation of the baggage to destination, over any one of the roads operating through our station. We issue the individual baggage check of the individual road. If it is going out on the Vandalia we issue a Vandalia check. If it is going out on the Illinois Central we issue an Illinois Central check. We check it where the passenger wants it checked to, but we want to see the baggage (342-3).

Mr. Humburg: Is that increase in sale of tickets due to a natural growth of the population of East St. Louis during the last nine months?

Mr. Cunningham: No, sir; that is not my opinion. I am certain it is due to the fact people come over and take advantage of the lower rate in the State of Illinois.

Mr. Humburg: Is it your judgment that the difference in the sale of these tickets is due entirely to the difference in fares, intrastate on the one hand and interstate on the other?

Mr. Cunningham: I am positive of that.

1890 Mr. Humburg: And your judgment would be the same with respect to the difference in these bridge tickets that are in greater number now for the later months' period than for the other months' periods?

Mr. Cunningham: Yes, sir; that is caused by a man buying a ticket, for instance, from Effingham, Ill., to East St. Louis, getting advantage of the Illinois rate, then, while the crew is changing locomotives, as a number of roads do at our station, he will get off the train, come in and buy a bridge ticket, and come over the river (344-5).

It has been my observation that of the people who come over who certainly are St. Louis passengers going to destinations in Illinois, 50 per cent. of them will come over on the train, get off at our station, and rebuy tickets; the other 50 per cent. come over on the street car and then buy (345).

Mr. Humburg: In getting off the train, is that a local train that runs only between St. Louis and East St. Louis, or is it on one of the through trains?

Mr. Cunningham: It is one of the through trains, but in most cases they stop long enough at our station; they have to stop; they

change locomotives, and that gives them ample time to rebuy (346).

Examiner Gutheim: What I am getting at is whether there is just as much split ticket business coming from the east into St. Louis as there is going from St. Louis to the east, in your judgment?

Mr. Cunningham: Yes, sir (346–7).

Mr. Humburg: What percentage of people coming from St. Louis passing through East St. Louis get off train A, buy a ticket and go back on train A, as compared with those that may come in on train B and get on train C, D or E?

Mr. Cunningham: I would say 75 per cent. get off and on the same train (347).

Mr. Humburg: Do the carriers check any of this baggage, if you know, from St. Louis to Chicago upon the presentation of a bridge ticket and a ticket from East St. Louis to Chicago?

1891 Mr. Cunningham: No, sir; not to my knowledge. It is in violation of our instructions.

Mr. Humburg: What means have you to know that these people coming over there are in fact travelers from St. Louis?

Mr. Cunningham: Well, they freely acknowledge it, those that I am personally acquainted with. They make no pretense of trying to hide it. And then you can observe the impatience they show at the ticket window, especially a person that is not familiar with the arrangement, trying it for the first time. He comes to the ticket window and is very nervous, fearful, I presume, that the train he got off of will pull out before he gets his ticket and gets back on it.

We have frequent inquiries (by telephone) and they are getting more numerous, and particularly with reference to the fare to Chicago. We have had a number of cases where they will call up and ask "What is the rate from East St. Louis to Chicago"? We will say $5.62. Well, it seems in most cases they are already aware what the rate from St. Louis to Chicago is, although they sometimes ask us that. But after we tell them the rate from East St. Louis to Chicago, if it happens to be a female inquirer, rather, in almost every case the second question is, "How can I reach the relay depot?" That is the question we get from St. Louis. (347-9)

We, of course, sell Pullman accommodations at the Relay Stations on all trains operating through the Relay depot, and in fact we also sell Pullman accommodations for trains operating from St. Louis to western destinations. We do not make any reservations on Chicago business unless we know that the passenger is a citizen of East St. Louis. We would not reserve a berth from East St. Louis on the local ticket of a passenger coming from St. Louis. (362)

Mr. Humburg: The only reason why you discontinued making these reservations is to comply with the law in applying the interstate rate?

Mr. Cunningham: Yes, sir. (362-3)

1892 (*c*) Appel's Evidence Shows Similar Increase in Sales for Wabash at Granite City, Ill.

Mr. J. A. Appel testified: I am the Freight, Ticket and Baggage Agent for the Wabash Railroad at Granite City, Ill. The number

of tickets sold over the Wabash from Granite City to points in Illinois and Indiana prior to and subsequent to December 1, 1914, have been as follows for the months named (368-9):

	1913.	1914.
December	264	517
	1914.	1915.
January	236	429
February	173	453
March	319	523
April	328	618
May	343	621
June	319	604
July	352	739
August	357	698

Mr. APPEL testified further: The following is a comparison of the number of tickets sold from Granite City to St. Louis during the months named:

	1913.	1914.
December	47	14
	1914.	1915.
January	19	8
February	17	37
March	58	62
April	32	19
May	22	28
June	27	29
July	20	20
August	13	19

The train does not stop at Granite City long enough for a person to get off the train coming from St. Louis, buy a ticket and get back again. (371)

Mr. Humburg: So there is no opportunity at Granite City for a passenger to get off, buy a ticket and get back on the same train?

Mr. Appel: I have had instances where a party got off a train out of St. Louis, our fast train, flag stop train, and would come
1893 in and endeavored to buy a ticket to points in Illinois. (372)

The population of Granite City is between 15,000 and 17,000; there has been no material increase in population during the last nine months. The increase in sales of tickets is due to the same conditions Mr. Cunningham has testified to. The Wabash tickets sold by me do not include interline tickets. There has been an increase in the traveling of persons going by street car from Granite City to East St. Louis. (376-7)

(*d*) Koenig's Evidence Shows Similar Increase in Sales for C. & A. R. Co. and Others at Granite City, Ill.

Mr. L. KOENIG testified: I have been joint agent for both passenger and freight at Granite City for the Chicago & Alton R. Co., Chicago & Eastern Illinois R. Co., and Cleveland, Cincinnati, Chicag & St. Louis R. Co. for a little over four years. There has been a increase in the sales of tickets from Granite City to Illinois point since December 1, 1914. (380-1)

The following is a statement of the number of tickets sold fo transportation over these three lines from Granite City to points i Illinois during the months named (381):

	C. & A. R. R.		C. & E. I. R. R.		C. C. C. & St. L. R. R.	
	1913.	1914.	1913.	1914.	1913.	191
December ...	691	907	27	140	526	64
	1914.	1915.	1914.	1915.	1914.	191
January	535	803	21	200	399	47
February	412	660	22	101	298	62
March	739	1,000	61	210	412	52
April	731	996	18	422	447	58
May	638	948	30	165	614	83
June	559	1,040	44	161	510	78
July	635	1,327	38	335	503	1,01
August	675	1,172	37	214	566	80

There are quite a number of people getting off the train at Granit City or coming in on street cars and buying tickets at Granite City (384)

Mr. Humburg: Is it your judgment that the disparity in sales o local tickets to which you have called attention is due entirely to th disparity in the passenger fares?

Mr. Koenig: I think so. (385)

1894 B. Interveners' Evidence Concerning Passenger Traffic.

Section 8. No Evidence Offered by Them.

NOTE: While the intervening petitions of the State of Illinois and of the State Public Utilities Commission of Illinois allege certain things concerning the reasonableness of intrastate-Illinois fares and non-discriminatory nature of interstate fares, no evidence was submitted by these interveners or any others in support of those allegations.

C. Respondents' Evidence Concerning Passenger Traffic.

Section 9. Lanigan's Evidence Submitted for All Respondents Shows Present Interstate Fares Between St. Louis and Points in Illinois Are Just and Reasonable and That the Lower Intrastate-Illinois Fares Are Unreasonably Low.

Ergo, if unjust discrimination against St. Louis and in favor of Illinois exists, the order for its removal should not require the reduction of said reasonable fares, but should admit of the advancing of said unreasonably low fares.

(a) Difference in Basis of Constructing Fares Intrastate-Illinois and Interstate Between St. Louis and Points in Illinois Prior to 1914 Explained. Advances of 1914 Are in Harmony With Fourth Section Order 899, Permitting the Application of 2½-cent Fares.

Mr. J. V. LANIGAN testified: I am assistant general passenger agent for the Illinois Central R. Co.; have held that position for the last four years, and during the four years next preceding I was in charge of the rate department. I am familiar with the issues here involved in so far as they relate to passenger traffic. Lanigan Exhibits 1 to 17, inclusive, have been prepared by me or under my direction, and are correct. (783-4)

1895 Mr. Humburg: What advances have been made recently in the interstate fares between St. Louis and points in Illinois?

Mr. Lanigan: On May 1, 1914, there were some advances made from St. Louis to points in Illinois, being part of an adjustment of the interstate fares in Central Passenger Association territory, but on December 1, 1914, there was a general revision of all the fares from St. Louis to practically all Illinois points on the basis of 2½ cents per mile for the Illinois distance added to the charges across the bridges at St. Louis.

Mr. Humburg: Was there anything done at this time in compliance with a fourth section order of the Interstate Commerce Commission in connection with that adjustment?

Mr. Lanigan: Yes; the Central Passenger Association roads had applied to the Commission for relief under the Fourth Section and they were granted extensions from time to time and finally the Commission stated that all fares in excess of the aggregate of intermediates should be adjusted so as not to exceed 2½ cents per mile. That is included in Fourth Section Order 899 and supplemental orders, extending the time within which those adjustments should be made. (785-6)

The fares between St. Louis and points east of the Illinois-Indiana state line have been upon a 2½-cent fare basis since May 1, 1914, as to lines leading directly east from St. Louis, and since December 1, 1914, as to other lines; the fares generally from St. Louis to points other than Illinois have been substantially upon a 2½-cent basis or higher ever since 1906 and before that time, while between points

in Illinois and St. Louis the basis has been 2 cents per passenger per mile between July 1, 1907 (when the Illinois maximum passenger fare law took effect) and 1914. (786)

The Chicago, Peoria & St. Louis Railway Company obtained an injunction (from the United States Circuit Court) which permits that road to charge 3 cents per mile within the State of Illinois.

There was practically no difference in the basis of making passenger fares intrastate-Illinois 2 cents and the basis existing between St. Louis and points in Illinois prior to 1914. The eastern lines 1896 were obliged to remove the discrimination under the Fourth Section, and that is why the rates were changed on May 1, 1914, as compared to the general elevation of the rates from St. Louis to Central Passenger Association and Trunk Line territories. (788)

Effective July 1, 1907, the Illinois Legislature enacted the maximum 2-cent passenger fare law. But for this statute, the intrastate-Illinois fares would have been advanced to the same measure relatively that the interstate fares between St. Louis and points in Illinois were advanced, effective December 1, 1914. (788)

(*b*) Changes in Passenger Fares between St. Louis and Typical Points in Illinois, Indiana, Michigan, Ohio, Pennsylvania, New York and Massachusetts from 1906 to 1915.

Lanigan Exhibit 1 is a map of Illinois showing certain points mentioned in the complaint. (789)

Lanigan Exhibit 2 shows the fares from St. Louis, Mo., to typical stations in Illinois, Indiana, Michigan, Ohio, Pennsylvania, New York and Massachusetts, covering a period from March, 1906, to October 14, 1915. It shows the passenger fares in effect during the various periods and the reasons for their changes. Column 1 shows fares in effect from April to March 10, 1906. Column 2 shows the changes effective March 10, 1906, these changes being induced by the Ohio 2-cent fare law. Column 3 shows the changes as of July 1, 1907, induced by the Illinois and Indiana 2-cent fare laws. Column 4 shows the adjustment reducing the tariffs to not more than 2½ cents per mile in accordance with an order of the Interstate Commerce Commission. Column 5 shows the adjustment of fares May 1, 1914, to meet the final extension orders under the Fourth Section. Column 6 shows the rates currently in effect. It also shows that the basis of passenger fares from St. Louis to Illinois points does not materially differ from the basis to other points east of the Illinois line, and that the present adjustment, generally speaking, is not higher than the adjustment of March 10, 1906. (789-90)

Said exhibit reads as follows:

(Here follows Lanigan Exhibit 2, marked page 1897.)

LANIGAN EXHIBIT 2.

SHOWING CHANGES IN PASSENGER FARES FROM ST. LOUIS, MO., TO TYPICAL POINTS IN ILLINOIS, INDIANA, MICHIGAN, OHIO, PENNSYLVANIA, NEW YORK, MASSACHUSETTS, MARCH, 1906, TO OCT. 14, 1915, AND REASONS FOR SAID CHANGES.

From		Column No. 1				Column No. 2				Column No. 3				Column No. 4				Column No. 5				Column No. 6			
		Prior to March 10, 1906				March 10, 1906 July 1, 1907				July 1, 1907– Dec. 1, 1912				Dec. 1, 1912– May 1, 1914				May 1, 1914 Dec. 1, 1914				Dec. 1, 1914, to Date			
St. Louis, Mo. To	Distance	Fare	Rate per Mile	Tariff Ref. I. C. C. No.		Fare	Rate per Mile	Tariff Ref. I. C. C. No.		Fare	Rate per Mile	Tariff Ref. I. C. C. No.		Fare	Rate per Mile	Tariff Ref. I. C. C. No.		Fare	Rate per Mile	Tariff Ref. I. C. C. No.		Fare	Rate per Mile	Tariff Ref. I. C. C. No.	
Chicago.....Ill.	284	$ 7.50	.0264	C.&A.	121	$ 7.50	.0264	C.&A.	121	$ 5.80	.0204	C.&A.	246	$ 5.80	.0204	C.&A.	246	$ 5.80	.0204	C.&A.	1178	$ 7.50	.0264	C.&A.	1236
Mattoon..... "	120	3.84	.032	CCC&StL	80	3.84	.032	CCC&StL	257	2.60	.0216	CCC&StL	708	2.60	.0216	CCC&StL	3574	2.90	.0241	CCC&StL	3817	3.23	.0269	CCC&StL	3817
Effingham..... "	101	3.19	.0325	Vand.	78	3.19	.0325	Vand.	A-1	2.21	.0225	Vand.	253	2.21	.0225	Vand.	967	2.47	.0252	Vand.	1014	2.70	.0264	Vand.	1034
Cairo..... "	151	4.65	.0308	I.C.	A-34	4.65	.0308	I.C.	A-34	3.33	.0213	I.C.	A-2797	3.17	.021	I.C.	A-4259	3.17	.021	I.C.	A-4259	4.00	.0264	I.C.	A-4327
Springfield..... "	90	2.95	.0298	C.& A.	121	2.95	.0298	C.& A.	121	2.10	.0212	C.& A.	246	2.10	.0212	C.& A.	246	2.10	.0212	C.& A.	1178	2.10	.0212	C.& A.	1236
Rock Island..... "	262	7.36	.0281	C.B.& Q.	1019	7.36	.0281	C.B.& Q.	1019	5.25	.02	C.B.& Q.	1631	5.24	.02	C.B.& Q.	2582	5.43	.0207	C.B.& Q.	2582	5.43	.0207	C.B.& Q.	2582
Galesburg..... "	208	5.70	.0274	C.B.& Q.	1019	5.70	.0274	C.B.& Q.	1019	4.35	.0209	C.B.& Q.	1631	4.35	.0209	C.B.& Q.	2582	4.35	.0209	C.B.& Q.	2582	4.35	.0209	C.B.& Q.	2582
La Fayette.....Ind.	233	7.15	.030	Wab.	731	7.15	.030	Wab.	731	7.15	.030	Wab.	1821	a 6.05	.0259	Wab.	3631	5.36	.023	Wab.	3925	6.00	.0257	Wab.	4016
Ft. Wayne..... "	342	10.00	.0291	Wab.	731	b 9.80	.0286	Wab.	731	c 9.55	.0279	Wab.	1821	a 8.63	.0252	Wab.	3631	8.51	.0248	Wab.	3925	8.70	.0254	Wab.	4016
Indianapolis..... "	241	7.40	.0307	Vand.	78	b 7.00	.029	Vand.	A-1	7.00	.029	Vand.	703	a 6.20	.0257	Vand.	967	6.20	.0257	Vand.	1014	6.20	.0257	Vand.	1034
Vincennes..... "	151	4.67	.0309			4.67	.0309			3.19	.0211			3.19	.0211			3.70	.0245	B.&O.S.W.	3153	3.94	.026	B.&O.S.W.	3199
Richmond..... "	309	9.00	.0291	28, 31, 32, 33		b 8.00	.0259	Vand.	A-1	8.00	.0259	Vand.	A-1	a 7.91	.0258		276	8.00	.0259		277	7.91	.0258		278
South Bend..... "	337	9.00	.0267	28, 31, 32, 33		9.00	.0267	Vand.	A-1	7.55	.0224	Vand.	968	7.55	.0224	Vand.	968	7.55	.0224	Vand.	1017	8.46	.0251	Vand.	1037
Grand Rapids Mich.	464	11.78	.0253		28	11.78	.0253		28	c 10.50	.0226		35	a 9.35	.0201		275	9.35	.0201		372	11.95	.0257		402
Lansing..... "	403	11.55	.0234		31, 32	b 11.78	.0237		28	9.55 c 10.50	.0205 .0213		35	10.00	.0202		275	9.97	.0202		372	12.54	.0254		402
Jackson..... "	.....	11.55	.026		33	11.55	.026		33	10.00 c 10.50 9.80	.0202 .0213 .022		35	9.80	.022		275	9.95	.023		372	11.16	.025		402
Detroit..... "	488	13.00	.0266	Wab.	731	b 12.20	.025	Wab.	731	d 11.30	.0231	Wab.	2002	11.30	.0231	Wab.	3631	11.20	.0231	Wab.	3925	12.35	.0253	Wab.	4016
Toledo.....Ohio	436	12.00	.0275	Wab.	731	b 11.00	.0252	Wab.	731	11.00	.0252	Wab.	2002	11.00	.0252	Wab.	2002	10.80	.0247	Wab.	3925	11.10	.0254	Wab.	4016
Cincinnati..... "	339	9.00	.0265			b 8.00	.0236			8.00	.0236			8.00	.0236			8.00	.0236	B.&O.S.W.	3153	8.65	.0255	B.&O.S.W.	3199
Dayton..... "	352	9.00	.0255			b 8.60	.0244			8.60	.0244			8.60	.0244			8.60	.0244		372	8.95	.0254		424
Springfield..... "	382	9.65	.0252	CCC&StL	129	b 9.10	.0238	CCC&StL	393	9.10	.0238	CCC&StL	393	9.10	.0238	CCC&StL	3590	9.10	.0238	CCC&StL	3818	9.56	.025	CCC&StL	3518
Columbus..... "	437	11.00	.0251			b 10.00	.0228			10.00	.0228			10.00	.0228			10.00	.0228	B.&O.S.W.	3153	10.70	.0244	B.&O.S.W.	3199
Cleveland..... "	537	15.00	.0278	CCC&StL	129	b 12.50	.0232	CCC&StL	278	12.50	.0232	CCC&StL	393	12.50	.0232	CCC&StL	3590	12.50	.0229	CCC&StL	3821	13.25	.0246	CCC&StL	3818
Pittsburgh.....Pa.	613	15.75	.0257	28, 31, 32, 33		b 14.00	.0228	Vand.	A-1	14.00	.0228		35	14.00	.0228		275	14.00	.0228		372	15.48	.0252		402
do via B.&O.S.W. "		14.75	.0236			b 13.00	.0208			13.00	.0208			13.00	.0208			13.00	.0208		372	14.48	.0232		
Harrisburg..... "	858	20.00	.0233			20.00	.0233			20.00	.0233			20.00	.0233			20.00	.0233			21.63	.0252		
Philadelphia..... "	962	21.00	.0218			21.00	.0218			21.00	.0218			21.00	.0218			21.25	.0221			22.75	.0236		
do via B.&O.S.W. "																		21.00	.0218			22.50	.0231		
Buffalo.....N. Y	719	18.25	.0253	CCC&StL	128	b 16.75	.0233	CCC&StL	278	16.75	.0233	CCC&StL	2593	16.75	.0233	CCC&StL	3591	16.30	.0226	CCC&StL	3821	17.35	.0241	CCC&StL	3821
Albany..... "	1016	22.50	.0221	CCC&StL	128	22.50	.0221	CCC&StL	278	22.50	.0221	CCC&StL	2593	22.50	.0221	CCC&StL	3591	22.40	.022	CCC&StL	3821	23.50	.0231	CCC&StL	3821
		21.00	.0206	CCC&StL	128	21.00	.0206	CCC&StL	278	21.00	.0206	CCC&StL	2593	21.00	.0206	CCC&StL	3591					22.50	.0221	CCC&StL	3821
New York City.. "	1052	23.50	.0223			23.50	.0223			23.50	.0223			23.50	.0223			23.50	.0223			24.75	.0235		
do via B.&O.S.W. "		21.00	.0198			21.00	.0198			21.00	.0198			21.00	.0198			21.00	.0198			22.50	.0211		
Boston.....Mass.	1198	25.50	.0212			25.50	.0212			25.50	.0212			25.50	.0212			25.50	.0212	B.&O.S.W.		26.35	.022		424
																		e 24.80	.0207						

Column 1—Fares prior to enactment of 2-cent State Fare Laws.
Column 2—Changes in fares due to Ohio 2-cent Fare Law.
Column 3—Changes in fares due to Indiana and Illinois 2-cent Fare Law.
Column 4—Changes in fares caused by elimination of combination in excess of 2½ cents per mile.
Column 5—Changes in fares caused by elimination of all combinations.
Column 6—Changes in fares due to increase in Illinois Interstate Fares.
In Tariff I. C. C. Reference Column where no line is shown the I. C. C. No. is the Joint Rate Sheet I. C. C. No.

a—Effective Sept. 5, 1912.
b—Effective Dec. 25, 1906.
c—Effective July 27, 1907.
d—Effective Nov. 10, 1907.
e—Effective Aug. 15, 1914.

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98 (c) Comparison of Fares Assailed with Fares Between Other Points Under Circumstances not Substantially Dissimilar, Also Comparison of Fares Over St. Louis Bridges with Fares Charged Over Various Other Bridges.

Lanigan Exhibit 3 shows the fares from St. Louis to points mentioned in the complaint compared with other fares between points approximately the same distance and under circumstances not substantially dissimilar. In each case a bridge crossing is involved. In the first case, the distance over the Louisville bridge is 6.7 miles, er the St. Louis (Eads) bridge 3.18 miles, Merchants' bridge 8.7 les, Parkersburg bridge 1.5 miles, and the Washington bridge 8.2 les, the Evansville bridge 12.3 miles. Those are the distances ween the points and not the distances over the bridges. It shows t the interstate fares between points in Illinois and St. Louis are higher than the other interstate fares cited. (790-1)

Concerning the comparison from St. Louis to Larchland with the e from Washington to Mountview, Larchland is on the Chicago, rlington & Quincy, and that line has not adjusted its passenger es to 2½ cents a mile on December 1, 1914, but it has higher fares ich are under suspension in I. & S. 600. (791)

Lanigan Exhibit 4 shows the passenger fares over each of the prinal bridges in the United States, the distance between stations on posite banks, and it shows other data. (792-3)

Said Exhibits 3 and 4 read as follows:

LANIGAN EXHIBIT 3.

COMPARISON OF FARES FROM ST. LOUIS, MO., TO POINTS MENTIONED IN COMPLAINT WITH OTHER FARES BETWEEN POINTS OF APPROXIMATELY THE SAME DISTANCES AND UNDER CIRCUMSTANCES NOT SUBSTANTIALLY DISSIMILAR.

	ROUTE VIA	MILES	FARE	BASES	Rate per Mile	TARIFF REFERENCE
St. Louis.....Mo. to Clinton.....Ill.	Ill. Cent.....	147.08	$3.40	Fare, St. Louis to Springfield, $2.10, plus $1.30 interstate basing fare.	.02311	Local Pass. C-2, I. C. C. A-4331.
Louisville.....Ky. to Greencastle.....Ind.	C. I. & L.....	146.5	3.75	Fare, Louisville to New Albany, 25c. plus 140 miles at 2½c. per mile.	.0255	C. I. & L. Tariff, I. C. C. 662.
St. Louis.....Mo. to McLean.....Ill.	C. & A.....	143	3.40	Fare, St. Louis to Springfield, $2.10 plus $1.30, interstate basing fare.	.0237	Local Tariff 46, I. C. C. 1236.
Cincinnati.....Ohio to Waynesburg.....Ky.	C. N. O. & T. P.	142.3	3.60	Fare, Cincinnati to Ludlow, Ky., 10c. plus 139.1 miles, 2½c. per mile.	0254	C. N. O. & T. P. Tariff No. 5, I. C. C. 662.
St. Louis.....Mo. to Villa Grove.....Ill.	C. & E. I.....	145	3.79	Fare, St. Louis to Granite City, 35c. plus 136.4 miles, 2½c. per mile.	.0261	C. & E. I. Tariff 27, I. C. C. 1389.
Parkersburg....W. Va. to Martinsville.....Ohio	B. & O. S. W....	145	3.85	Fare, Parkersburg to Belpre, 25c. plus 144 miles at 2½c. per mile.	.0265	B. & O. S. W. Tariff, I. C. C. 3199.
St. Louis.....Mo. to Larchland.....Ill.	C. B. & Q.....	179.4	3.77	Fare, St. Louis to E. St. Louis, 25c. plus 176 miles, at .02c. per mile.	.021	C. B. & Q. Tariff 8-A, I. C. C. 2582.
Washington.....D. C. to Montview.....Va.	So. Ry.....	179.8	4.55	Fare, Washington to Alexander Sta., Va., 25c. plus 171 miles, at 2½c. per mile.	0252	So. Ry. I. C. C. No. 2951.
St. Louis.....Mo. to Monticello.....Ill.	Wabash.....	141	3.65	Fare, St. Louis to East, St. Louis, 25c. plus 137 miles, at 2½c. per mile.	.0258	Wabash Tariff 15-A, I. C. C. 4014.
Evansville.....Ind.				Fare, Evansville to Hender-		

LANIGAN EXHIBIT 4.

COMPARING FARES CHARGED OVER BRIDGES AT ST. LOUIS WITH FARES CHARGED OVER VARIOUS OTHER BRIDGES.

BRIDGE LOCATED BETWEEN	One-Way Charge	Distance Between Points Feet	Length of Bridge Feet	Length of Approaches	OWNER OF BRIDGE	COMPANY OPERATING TRAINS	TARIFF REFERENCE I. C. C. No.
1. Evansville, Ind., and Henderson, Ky.....	$0.60	65,102	3,195	20,791	Henderson Bridge Company.....	L. & N..... I. C.....	I. C. A-4052.
2. Washington, D. C. and Alexandria, Va	.25	43,296	2,542	3,249	Penna. R. R.....	So. Ry..... C. & O. Ry..... W. S. Ry.....	So. Ry. 2951.
3. Wilmington, N. C. and Navassa, N. C.	.15	23,232	977	12,012	Wilmington B. Co...	A. C. L. R. R..... S. A. L. R. R.....	A. C. L. A-1062.
4. Nebraska City, Neb. and Payne, Iowa..	.50	30,096	1,132	75	C. B. & Q. R. R.....	C. B. & Q. R. R.....	C. B. & Q. 2921.
5. Rulo, Neb. and Fortesque, Mo.....	.50	32,208	1,136	855	C. B. & Q. R. R.....	C. B. & Q. R. R.....	C. B. & Q. 2935.
6. Cairo, Ill. and East Cairo, Ky.....	.35	48,576	4,137	16,324	C.St.L.& N.O.R.R..	I. C. R. R..... M. & O. R. R.....	I. C. 4049.
7. Council Bluffs, Iowa and Omaha, Neb..	.25	23,548	1.049	569	O. B. & T. Co.....	I. C. R. R.....	I. C. A-4274.
8. St. Joseph, Mo. and Elwood, Kan.....	.31	7,392	1,262	110	St. J. & G. I. Ry....	St. J. & G. I..... C. R. I. & P.....	St. J. & G. I. 1628.
9. Sioux City, Iowa and Sioux City, Neb...	.25	23,232	1,676	134	C. St. P. M. & O. Ry.	C. St. P. M. & O. Ry. C. B. & Q.....	C. B. & Q. 2975.

10. Stillings, Mo., and Leavenworth, Kan.	.25	7,392	1,108	No approaches	C. B. & Q. R. R....	C. B. & Q. R. R....	C. B. & Q. 3008.
11. Winona, Minn. and E. Winona, Wis.....	.25	11,616	440	2,088	Winona Bdge. & Ry. Co.....	C. B. & Q. R. R..... C. B. & Q. R. R....	C. B. & Q. 2942.
12. Bellaire, Ohio, and Benwood, W. Va..	.25	5,280	2,411	1,433	B. & O. R. R.....	B. & O. R. R.....	B. & O. B-971.
13. Council Bluffs, Iowa and Omaha, Neb..	.25	15,013	1,750	No approaches	U. P. R. R.....	U. P. R. R..... C. B. & Q. R. R.... C. M. & St. P. Ry... C. R. I. & P..... C. & N. W. Ry..... Wabash R. R.....	U. P. 2990.
14. E. St. Louis, Ill. and Louis, Mo..... (Eads Bridge.)	.25	16,949	1,628	4,814	Term'l R. R. Assn. St. Louis.....	Term. R. R. Assn. of St. Louis..... B. & O. S. W. R. R.. C. B. & Q. R. R..... C. & A. R. R..... C. C. C. & St. L.... I. C. R. R..... L. & N. R. R..... M. & O. R. R..... St. L. I. M. & S..... Southern Ry..... T. St. L. & W. Ry... Vandalia R. R..... Wabash R. R.....	I. C. A-4331.
15. Keithsburg, Ill. and W. Keithsburg, Ia.	.25	8,448	2,298	1,501	Keithsburg Bdg. Co.	M. & St. L. R. R....	M. & St. L. 786.
16. Kenova, W. Va. and South Point, Ohio.	.10	10,032	1,718	2,256	N. & W. Ry.....	N. & W. Ry.....	N. & W. 1133.

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LANIGAN EXHIBIT 4—Continued.

COMPARING FARES CHARGED OVER BRIDGES AT ST. LOUIS WITH FARES CHARGED OVER VARIOUS OTHER BRIDGES.

BRIDGE LOCATED BETWEEN	One-Way Charge	Distance Between Points Feet	Length of Bridge Feet	Length of Approaches	OWNER OF BRIDGE	COMPANY OPERATING TRAINS	TARIFF REFERENCE I. C. C. No.
17. Keokuk, Iowa and Hamilton, Ill.....	$0.25	6,864	2,900	No data	Keokuk & Hamilton Bdg. Co.....	T. P. & W. Ry..... Wabash R. R.....	T. P. & W. 192.
18. Memphis, Tenn. and Bridge Jct., Ark...	.35	17,600	2,258	2,674	Kansas City & Memphis Ry. & Bdg. Co.....	St. L. & S. F..... St. L. I. M. & S. Ry. C. R. I. & P. R. R.. St. L. S. W.....	C. R. I. & P. A-1900
19. Madison, Ill. and St. Louis, Mo..... (Merchants' Bdg.)	35	38,755	1,567	8,940	St. Louis Merchants Bdg. Term. Ry. Co..	C. & E. I. Ry..... C. C. C. & St. L. Ry. St. L. I. M. & S. Ry. C. & A. R. R..... C. P. & St. L..... I. C. R. R..... Wabash R. R..... St. L. M. B. T.....	I. C. A-4331.
20. Pacific Jct., Iowa and Plattsmouth, Neb.	.25	26,400	1,420	239	C. B. & Q. R. R.....	C. B. & Q. R. R.....	C. B. & Q. 2934.
21. Parkersburg, W. Va. and Belpre, Ohio..	.25	7,920	1,544	2,851	B. & O. R. R.....	B. & O. R. R.....	B. & O. A-3462.
22. Pt. Pleasant, W. Va. and Kanauga, Ohio	.30	13,728	1,370	2,466	Kanawha & Mich...	K. & M. R. R.....	K. & M. 93.

2003

23. Alton, Ill. and W. Alton, Mo.....	.25	14,784	2,102	1,400	Mo. & Ill. Bdg. & Belt Company....	Mo. & Ill. Bdg. & Belt Company....	M. & I. B. & B. 2.
24. Cincinnati, Ohio and Covington, Ky....	.25	3,870	1,540	2,330	Covington & Cin. Bdg. Co.....	C. & O. Ry..... L. & N. R. R.....	L. & N. 3561.
25. Cincinnati, Ohio and Ludlow, Ky.....	.10	16,565	1,560	No data	C. N. O. & T. P. Ry..	C. N. O. & T. P.....	C. N. O. & T. P. 662.
26. Hannibal, Mo. and E. Hannibal, Ill...	.25	448	1,582	6,839	Hannibal Bdg. Co...	Wabash R. R.....	Wabash 4014.
27. Atchison, Kan. and Winthrop, Mo.....	.20	2,640	1,176	15	Atchison and East Bdg. Co.....	C. B. & Q. R. R..... A. T. & S. F. Ry..... C. R. I. & P. Ry..... Mo. Pac.....	C. B. & Q. 3008.
28. Clinton, Iowa and Fulton, Ill.....	.20	15,438	4,235.10	No approaches	C. & N. W.....	C. & N. W. Ry..... C. B. & Q. R. R.....	C. & N. W. 2222.
29. Quincy, Ill. and W. Quincy, Mo....	.20	10,560	3,044	No data	C. B. & Q.....	C. B. & Q. R. R.....	C. B. & Q. 2918.
30. Laredo, Tex. and... New Laredo, Mex.	.25	6,318	1,167	5,151	N. R. R. of Mex.....	N. R. R. of Mex.....	N. L. of Mex. Circular 1906-380.
31. Eagle Pass, Tex. and Ciudad Porfirio Diaz, Mex.....	.25	9,134-4"	1,695	7,439	Mex. Int. R. R.....	Mex. Int. R. R.....	.....
32. Dubuque, Iowa and East Dubuque, Ill.	.30	8,155	1,535	6,620	Dunleith & Dubuque Bdg. Co.....	I. C. R. R..... C. B. & Q..... C. G. W.....	I. C. A-4270

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004 (*d*) Changes in Fares Between St. Louis and Points on the opposite Bank of the Mississippi River in Illinois to Representative Stations in Illinois from 1907 to 1915.

Lanigan Exhibit 5 shows the fares between Granite City, East St. ouis and Madison, Ill., St. Louis, Mo., and typical stations in Illiois July, 1907, to October 14, 1915. (793)

It shows the charges in effect over the bridges; that is, between the ations, St. Louis (on the one hand and) East St. Louis, Granite ity and Madison (on the other) for the past eight years.

It shows also that the fares to Illinois points have not since 1907 een the same from St. Louis as from East St. Louis, but generally peaking, the fares from St. Louis are higher than from East St. ouis. In fact, to Illinois points they are invariably higher. (794)

Said exhibit reads as follows:

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LANIGAN EXHIBIT 5

SHOWING CHANGES IN FARES BETWEEN GRANITE CITY, EAST ST. LOUIS AND MADISON, ILL., ST. LOUIS, MO., AND TYPICAL STATIONS IN ILLINOIS—JULY, 1907–OCTOBER 14, 1915.

	Prior to July 1, 1907		July 1, 1907, to May 1, 1914 (Except where otherwise stated)		May 1, 1914, to December 1, 1914 (Except where otherwise stated)		December 1, 1914, to Date (Except where otherwise stated)	
	Fare	Tariff Reference I. C. C. No.	Fare	Tariff Reference I. C. C. No.	Fare	Tariff Reference I. C. C. No.	Fare	Tariff Reference I. C. C. No.
Between St. Louis, Mo. and								
East St. Louis.....Ill.	$0.25	I. C. A-1751	$0.25	I. C. A-2796	$0.25	I. C. A-2796	$0.25	I. C. A-4331
Madison..... "	.35	I. C. A-1751	.33*	I. C. A-2796	.33	I. C. A-2796	.35	I. C. A-4331
Granite City..... "	.30	C. & A. 121	30	C. & A. 246	.35	C. & A. 1178	.35	C. & A. 1236
Between Chicago, Ill. and								
St. Louis.....Mo.	7.50	I. C. A-1751	5.80	I. C. A-2796	5.80	I. C. A-2796	7.50	I. C. A-4331
East St. Louis.....Ill.	7.25	I. C. A-1751	5.62	I. C. A-2796	5.62	I. C. A-2796	7.25	I. C. A-4331
Madison..... "	7.20	I. C. A-1751	5.60	I. C. A-2796	5.60	I. C. A-2796	7.20	I. C. A-4331
Granite City..... "	7.10	C. & A. 121	5.50	C. & A. 246	5.50	C. & A. 246	7.15	C. & A. 1236
Between Mattoon, Ill. and								
St. Louis.....Mo.	3.84	CCC&StL. 257	2.60	CCC&StL. 3574	2.90	CCC&StL. 3817	3.23	CCC&StL. 3947
East St. Louis.....Ill.	3.59	CCC&StL. 257	2.40	CCC&StL. 3574	2.65	CCC&StL. 3817	2.98	CCC&StL. 3947
Granite City..... "	.....	CCC&StL. 257	2.30	CCC&StL. 3574	.....	CCC&StL. 3817	2.88	CCC&StL. 3947

*From December 17, 1910, to February 1, 1914, fare via Merchants Bridge was 25 cents.

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Between Springfield, Ill. and											
St. Louis.....Mo.	2.95	C. & A.	121	2.10	C. & A.	246	2.10	C. & A.	1178	2.10	C. & A. 1236
East St. Louis.....Ill.	2.70	C. & A.	121	1.92	C. & A.	246	1.88	C. & A.	1178	1.90	C. & A. 1236
Madison..... "	2.70	I. C.	A-1751	1.90	I. C.	A-2796	1.90	I. C.	A-2796	1.80	I. C. A-4331
Granite City..... "	2.65	C. & A.	121	1.80	C. & A.	246	1.80	C. & A.	1178	1.80	C. & A. 1236
Between Rock Island, Ill. and				July 1, 1907, to May 15, 1912			May 15, 1912, to May 1, 1914				May 1, 1914 to Date
St. Louis.....Mo.	7.36	C. B. & Q.	1019	5.25	C. B. & Q.	1631	5.24	C. B. & Q.	2582	5.43	C. B. & Q. 2582
East St. Louis.....Ill.	7.11	C. B. & Q.	1019	5.20	C. B. & Q.	1631	5.18	C. B. & Q.	2582	5.18	C. B. & Q. 2582
Between Galesburg, Ill. and				July 1, 1907, to May 15, 1912			May 15, 1912, to May 1, 1914				May 1, 1914, to Date
St. Louis.....Mo.	5.70	C. B. & Q.	1019	4.35	C. B. & Q.	1631	4.35	C. B. & Q.	2582	4.35	C. B. & Q. 2582
East St. Louis.....Ill.	5.45	C. B. & Q.	1019	4.10	C. B. & Q.	1631	4.10	C. B. & Q.	2582	4.10	C. B. & Q. 2582
Between Effingham, Ill. and				July 1, 1907, to May 1, 1914			May 1, 1914, to December 1, 1914			December 1, 1914, to Date	
St. Louis.....Mo.	3.19	P. L.	A-1	2.21	Vand.	967	2.47	L. P. T.	1014	2.70	L. P. T. 1034
East St. Louis.....Ill.	2.94	L. P. T.	259	1.96	Vand.	363	2.22	L. P. T.	1014	2.45	L. P. T. 1034
Between Cairo, Ill. and				July 1, 1907, to February 15, 1914			February 15, 1914, to December 1, 1914			December 1, 1914, to Date	
St. Louis.....Mo.	4.65	I. C.	A-34	3.23	I. C.	A-2797	3.17	I. C.	A-4259	4.00	I. C. A-4327
East St. Louis.....Ill.	4.40	I. C.	A-34	2.98	I. C.	A-2697	2.92	I. C.	A-4259	3.75	I. C. A-4327
Between Clinton, Ill. and				July 1, 1907, to February 1, 1914			February 1, 1914, to December 1, 1914			December 1, 1914, to Date	
St. Louis.....Mo.	4.12	I. C.	A-1751	3.11	I. C.	A-2796	3.00	Supp. 5 to	A-2796	3.40	I. C. A-4331
East St. Louis.....Ill.	3.87	I. C.	A-1751	2.86	I. C.	A-2796	2.80	Supp. 5 to	A-2796	3.20	I. C. A-4331
Madison..... "	3.85	I. C.	A-1751	2.80	I. C.	A-2796	2.80	Supp. 5 to	A-2796	3.10	I. C. A-4331

LANIGAN EXHIBIT 5—Continued

SHOWING CHANGES IN FARES BETWEEN GRANITE CITY, EAST ST. LOUIS AND MADISON, ILL., ST. LOUIS, MO., AND TYPICAL STATIONS IN ILLINOIS—JULY, 1907-OCTOBER 14, 1915.

	Prior to July 1, 1907		July 1, 1907, to May 1, 1914 (Except where otherwise stated)		May 1, 1914, to December 1, 1914 (Except where otherwise stated)		December 1, 1914, to Date (Except where otherwise stated)	
	Fare	Tariff Reference I. C. C. No.	Fare	Tariff Reference I. C. C. No.	Fare	Tariff Reference I. C. C. No.	Fare	Tariff Reference I. C. C. No.
Between Larchland, Ill. and			July 1, 1907, to January 1, 1908		January 1, 1908, to May 15, 1912		May 15, 1912, to Date	
St. Louis.....Mo.	$5.50	C. B. & Q. 1019	$3 77	C. B. & Q. 1631	$3.85	C. B. & Q. 1735	$3.77	C. B. & Q. 2582
East St. Louis.....Ill.	5.25	C. B. & Q. 1019	3.52	C. B. & Q. 1631	3.60	C. B. & Q. 1735	3.52	C. B. & Q. 2582
Between McLean, Ill. and			July 1, 1907, to May 1, 1914		May 1, 1914, to December 1, 1914		December 1, 1914, to Date	
St. Louis.....Mo.	4.20	C. & A. 121	3.00	C. & A. 246	3.40	C. & A. 1236	3.40	C. & A. 1236
East St. Louis.....Ill.	3.95	C. & A. 121	2.80	C. & A. 246	3.20	C. & A. 1236	3.20	C. & A. 1236
Granite City..... "	3.85	C. & A. 121	2.68	C. & A. 246	3.10	C. & A. 1236	3.10	C. & A. 1236
Between Villa Grove, Ill. and			July 1, 1907, to December 1, 1914		December 1, 1914, to January 1, 1915		January 1, 1915, to Date	
St. Louis.....Mo.	4.52	C. & E. I. 394	3.02	C. & E. I. 531	3.76	C. & E. I. 1383	3.79	C. & E. I. 1389
Granite City.....Ill.	4.11	C. & E. I. 394	2.72	C. & E. I. 531	3.41	C. & E. I. 1383	3.44	C. & E. I. 1389

2008 (*e*) Illustration Showing How the Through Interstate Fares are Defeated by Combination of Intrastate Fares to or from East St. Louis, Madison or Granite City Plus Interstate Fares Across the Bridge. Also Examples of Discrimination Against St. Louis and in Favor of Chicago Under Existing Passenger Fare Adjustment.

Lanigan Exhibit 6 shows the combination of intrastate and interstate fares used to defeat through interstate fares. It shows in the first section the cases mentioned in the complaint and in the second section additional typical cases. It is presented with reference to the allegation in the petition where it is said that the "following comparisons show for illustrative purposes the present effective passenger fares between St. Louis and certain points in Illinois and the passenger fares over the same lines between Chicago and the same points in Illinois and show the discrimination for similar mileages against St. Louis by reason thereof." (794-5)

This exhibit is intended also to show how the interstate fares are divided and the extent to which the inexperienced traveler and one not familiar with local conditions would be discriminated against in favor of the experienced traveler who is thoroughly familiar with all the local conditions. (795)

Lanigan Exhibit 6-A is intended to show how the low Illinois 2-cent fare operates to discriminate in favor of Illinois commercial centers against St. Louis due to the maximum 2-cent fare law. (796)

Mr. Humburg: Will you explain just how that works as illustrated by this exhibit?

Mr. Lanigan: Well, it shows that the distance from Chicago to Mattoon is 171 miles, the fare is $3.42. The fare for a passenger from Windsor, Ill., to St. Louis, only 111 miles, would cost approximately the same, $3.44. In other words, Chicago is enabled by the lower passenger fare in Illinois to get into a more extensive territory by 60 miles. The same is true also of Effingham as compared to Marshall.

For a distance of 193 miles from Chicago to Effingham the fare would be $3.96. To Marshall, Ill., 151 miles from St. Louis, the fare is approximately the same, $3.94. (796-7)

Under the 2-cent maximum rate law, the East St. Louis passenger pays for a ticket to Chicago $5.62. The St. Louis passenger would pay $7.50, and both would ride in the same train. (796)

Said Exhibits 6 and 6-A read as follows:

LANIGAN EXHIBIT 6.

SHOWING HOW COMBINATION OF INTRASTATE AND INTERSTATE FARES ARE USED TO DEFEAT THROUGH INTERSTATE FARES—TYPICAL CASES.

	Between St. Louis, Mo. and Stations in Illinois	Distance Miles	Through Interstate Fare	Tariff Ref. I. C. C. No. and I. W. C. No.	COST BY REPURCHASE AT EAST SIDE JUNCTION			Extent to Which Interstate Tariffs are Defeated
				Group No. 1—CASES MENTIONED IN COMPLAINT.				
.....	Clinton.....	147.08	$3.40	I. C. A-4331.....	St. Louis to East St. Louis....	$0.25		
				I. C. 36.....	E. St. Louis to Clinton.....	2.80	$3.05	$0.35
.....	McLean.....	143.00	3.40	C. & A. 1236.....	St. Louis to East St. Louis....	.25		
				C. & A. 162.....	East St. Louis to McLean.....	2.80	3.05	.35
.....	.....	.....	.....	C. & A. 1236.....	St. Louis to Granite City....	.35		
				C. & A. 162.....	Granite City to McLean.....	2.68	3.03	.37
.....	Villa Grove...	145.00	3.79	C. & E. I. 1389.....	St. Louis to Granite City.....	.35		
				C. & E. I. 41.....	Granite City to Villa Grove..	2.75	3.07	.72
.....	Larchland.....	179.4	3.77	C. B. & Q. 2582.....	St. Louis to E. St. Louis.....	.25		
				C. B. & Q. 8-A.....	E. St. Louis to Larchland.....	3.52	3.77	....
.....	Monticello....	141.00	3.65	Wab. 4014.....	St. Louis to East St. Louis....	.25		
				Wab. 54.....	E. St. Louis to Monticello....	2.70	2.95	.70
				Group No. 2—ADDITIONAL TYPICAL CASES.				
.....	Chicago.....	284.00	7.50	I. C. A-4331.....	St. Louis to E. St. Louis.....	.25		
				I. C. 36.....	E. St. Louis to Chicago.....	5.62	5.87	1.63
.....	.....	.....	.....	I. C. A-4331.....	St. Louis to Madison.....	.35		
				I. C. 36.....	Madison to Chicago.....	5.60	5.95	1.55
.....	.....	.....	.....	C. & A. 1236.....	St. Louis to Granite City.....	.35		
				C. & A. 162.....	Granite City to Chicago.....	5.50	5.85	1.63

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.....	Cairo.....	151.80	4 00	I. C. A-4327.....	St. Louis to East St. Louis....	.25		
				I. C. 90.....	East St. Louis to Cairo.....	2 92	3.17	.83
.....	Lawrenceville.	141.00	3.69	B. & O. S. W. 3199.....	St. Louis to East St. Louis..	.25		
				B. & O. S. W. 27	E. St. Louis to Lawrenceville.	2.74	2 99	.70
.....	Carmi	127 00	3 34	L. & N. 3775.....	St. Louis to E. St. Louis.....	.25		
				L. & N. 2597.....	E. St. Louis to Carmi	2.46	2 71	.63
.....	Havana	159 5	3 50	C. P. & St. L. A-643...	St. Louis to Granite City....	.35		
				C. P. & St. L. 69	Granite City to Havana.....	3.02	3.37	.13
.....	Mattoon.....	123 7	3.23	C. C. C. & St. L. 3947 .	St. Louis to E. St. Louis.	.25		
				C. C. C. & St. L. 53....	East St. Louis to Mattoon....	2.40	2.65	.58
.....	.....	.....	.....	C. C. C. & St. L. 3947..	St. Louis to Granite City.....	.35		
				C. C. C. & St, L. 53.. ..	Granite City to Mattoon.....	2.30	2.65	.58
.....	Kankakee.. ..	238.98	5 95	I. C. A-4331.....	St. Louis to East St. Louis....	.25		
				I. C. 36.....	East St. Louis to Kankakee...	4.66	4.91	1.04
.....	Chicago Heights	263.3	6.81	C. & E. I. 1389	St. Louis to Granite City.....	.35		
				C. & E. I. 41	Granite City to Chicago Hgts.	5.08	5.43	1.38
.....	Lerna.....	126.00	3.32	T. St. L. & W. 1402.. ..	St. Louis to East St. Louis....	.25		
				T. St. L. & W. 29.....	East St. Louis to Lerna.....	2.46	2.71	.61
.....	Gorham.....	92.12	2.40	St. L. I. M. & S. 4839..	St. Louis to East St. Louis....	.25		
				St. L. I. M. & S. 00-1...	East St. Louis to Gorham....	1.68	1.93	.47
.....	Centralia.....	65.1	1.74	So. Ry. 3293.....	St. Louis to East St. Louis....	.25		
				So. Ry. No. 1.....	East St. Louis to Centralia...	1.24	1.49	.25
.....	Marshall.....	150.8	3.94	Vand. 1034.....	St. Louis to East St. Louis....	.25		
				Vand. No. 1.....	East St. Louis to Marshall....	2.96	3.21	.73
.....	Joliet.....	246.7	6.40	C. & A. 1236.....	St. Louis to Granite City.....	.35		
				C. & A. 162.....	Granite City to Joliet.....	4.76	5.11	1.29

2011 LANIGAN EXHIBIT 6A.

Showing Discrimination Against St. Louis and in Favor of Chicago.

		Distance from—		Fares from—	
		Chicago.	St. Louis.	Chicago.	St. Louis.
Arthur	C. & E. I.	164.9	125.1	$3.20	$3.27
Athol	C. & A.	155.7	128.2	3.12	3.00
Larchland	C., B. & Q.	179	185	3.70	3.77
Kenney	I. C.	155	139	3.10	3.15
Cerro Gordo	Wabash	100	126	3.22	3.25
	Additional Examples.				
Mattoon		171	123.7	3.42	3.23
Windsor		.....	111.6	.....	3.44
Effingham		193	101.2	3.90	2.70
Marshall		.....	150.8	.....	3.94
Tuscola		148	136.6	2.96	3.55
Noble		.....	111	.....	2.95

(*f*) Short Line Competition Results in Reduction of Fares via the Longer Lines.

Lanigan Exhibit 7 shows how the passenger fare per mile is reduced due to the longer line meeting the competition of the shorter line between the points named in the exhibit, which are typical points. It shows fairly well, under the St. Louis-Chicago situation, how, by reason of the longer line meeting the short line rate, the longer line shrinks its fares. For example, St. Louis-Chicago is the lower left-hand corner of Lanigan Exhibit 7. The short line St. Louis to Chicago is 283.9 miles. The rate per mile through would be slightly over 2 cents. The rate per mile of the longest line is 1.97 cents. While it is only a small fraction, in the aggregate it means a good deal. (798)

Said Exhibit 7 reads as follows:

(Here follows Lanigan Exhibit 7, marked page 2012.)

LANIGAN EXHIBIT 7.

SHOWING REDUCTIONS IN PASSENGER FARE PER MILE DUE TO LONGER LINES MEETING COMPETITION OF SHORT LINES—INTERSTATE AND INTRASTATE—TYPICAL CASES.

INTERSTATE FARES

FARES IN EFFECT PRIOR TO DEC. 1, 1914—BASIS 2 CENTS PER MILE, ILLINOIS DISTANCE, PLUS FARE ACROSS BRIDGE.

FROM ST. LOUIS.....MO. TO	Route Via	Distance	Fare and I. C. C. Tariff Reference	BASES	Rate Per Mile
Bloomington.....Ill.	C. & A.....	157.3	$3.30 1178	Fare St. Louis, Granite City, 30 cents; 148.7 miles at 2 cents.....	$0.021
Bloomington.....Ill.	I. C. R. R.....	169.55	3.30 A-4272	C. & A. Distance.....	.0194
Bloomington.....Ill.	Vand. R. R. to Vandalia, Ill., I. C. R. R....	175.54	3.30 J E H's 402	C. & A. Distance.....	.0187
Peoria.....Ill.	C. & A.....	162.1	3.40 1178	Fare St. Louis, Granite City, 30 cents; 153.5 miles at 2 cents.....	.0209
Peoria.....Ill.	I. C. R. R.....	181.97	3.40 A-4272	C. & A. Distance.....	.0186
Vandalia.....Ill.	Vand. R. R....	69.6	1.57 1014	Fare St. Louis, East St. Louis, 25 cents; 66.3 miles at 2 cents.....	.0229
Vandalia.....Ill.	So. Ry., Centralia, I. C. R. R.....	95.24	1.57 J E H's 402	Vand. Line Distance.....	.0165
Mt. Vernon.....Ill.	L. & N.....	79	1.77 3517	Fare St. Louis, East St. Louis, 25 cents; 76 miles at 2 cents.....	.0224
Mt. Vernon.....Ill.	So. Ry.....	87	1.77 3166	L. & N. Distance.....	.02
Murphysboro.....Ill.	I. C. R. R.....	87	1.93 A-4259	Fare St. Louis, East St. Louis, 25 cents; 84 miles at 2 cents.....	.0221
Murphysboro.....Ill.	M. & O.....	93.2	1.93	I. C. Distance.....	.0207
Murphysboro.....Ill.	St.L.I.M.&S.	102.10	1.93 4709	I. C. Distance.....	.0189
Chicago.....Ill.	C. & A.....	283.9	5.80 1178	Fare St. Louis, Granite City, 30 cents; 275 miles at 2 cents.....	.0204
Chicago.....Ill.	Wabash.....	286	5.80 3927	C. & A. Distance.....	.0202
Chicago.....Ill.	C. & E. I.....	290	5.80 1351	C. & A. Distance.....	.02
Chicago.....Ill.	I. C. R. R.....	293.41	5.80 A-2796	C. & A. Distance.....	.0197

FARES IN EFFECT DEC. 1, 1914 AND THEREAFTER—BASIS 2½ CENTS PER MILE (EXCLUDING DISTANCE ACROSS BRIDGE), PLUS FARE ACROSS BRIDGE.

FROM ST. LOUIS.....MO. TO	Route Via	Distance	Fare and I. C. C. Tariff Reference	BASES	Rate Per Mile
Cincinnati.....Ohio	B. & O. S. W...	339	$8.65 3199	Fare St. Louis, East St. Louis, 25 cents; 336 miles at 2½ cents.....	$0.0255
Cincinnati.....Ohio	C.C.C.& St.L.	362	8.65 3959	B. & O. S. W. Distance.....	.0226
Ft. Wayne.....Ind.	Wabash.....	342	8.70 4016	Fare St. Louis, East St. Louis, 25 cents; 339 miles at 2½ cents.....	.0254
Ft. Wayne.....Ind.	I.C.R.R., Chicago, thence N.Y.C.& St.L.	446	8.70 J E H's 424	Wabash Distance.....	.0195
Bloomington.....Ill.	C. & A.....	157.3	3.80 1236	Fare St. Louis, Springfield, $2.10; $1.70 Interstate basing.....	.0242
Bloomington.....Ill.	Ill. Cent.....	169.55	3.80 A-4384	C. & A. Distance.....	.0223
INTRASTATE FARES					
Springfield.....Ill. to Fairfield.....Ill.	B. & O. S. W...	130	2.60 IPUC 27	2 cents per mile.....	.02
Springfield.....Ill. to Fairfield.....Ill.	C. & A., E. St. L., So. Ry...	211	2.60 IWC 191	B. & O. S. W. Distance.....	.0123
Bloomington.....Ill. to Springfield.....Ill.	C. & A.....	59	1.18 IWC 162	2 cents per mile.....	.02
Bloomington.....Ill. to Springfield.....Ill.	Ill. Cent.....	67	1.18 IWC 104	C. & A. Distance.....	.0176
Chicago.....Ill. to Savanna.....Ill.	C. M. & St. P..	138	2.76 ICC 2105	2 cents per mile.....	.02
Chicago.....Ill. to Savanna.....Ill.	C. B. & Q.....	145	2.76 ICC 3009	C. M. & St. P. Distance.....	.019

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2013 (*g*) Intrastate-Illinois Fares are Unreasonably Low Compared with Interstate Fares for Similar Distances Between Other Points under Circumstances not Substantially Dissimilar.

Lanigan Exhibit 8 is a comparison of certain intrastate fares with interstate fares between points of approximately the same distance and shows how railroads having a substantial mileage in Illinois are held down as to charges while roads operating through two or more states are enabled to make higher charges for substantially the same service. (798-9)

For example, the first item, Chicago to Cairo, Ill., a distance of 364 miles, all in one state, is compared with Chicago to Rodney, Ontario, 365 miles, covering three states and Canada. The service operated by the eastbound lines is substantially the same as on the trunk line trains of the Illinois Central. It is simply by reason of operating through the several states that they are enabled to make a higher charge. (799)

Said Exhibit 8 reads as follows:

LANIGAN EXHIBIT 8.

Showing Comparison of Certain Intrastate Illinois Fares with Interstate Fares Between Points of Approximately the Same Distances.

	Miles.	Fare.	Rate per mile.	Tariff reference.	Via.
Chicago .....Ill. to Cairo ..... "	364	$7.28	.02	Local A-1, I. W. C. No. 34.....	I. C.
Chicago .....Ill. to Rodney .....Ont.	365	9.25	.0253	Interdivision A-4-2, I. C. C. 3751.....	M. C. touching 3 states and Canada.
Chicago .....Ill. to Thebes ..... "	378	7.26	.0192	Tariff 25, S. P. U. C. I. No. 41.....	C. & E. I.
Chicago .....Ill. to Nicholasville .Ky.	379	9.30	.0245	Supp. 10 to Chicago Tariff 268, I. C. C. No. 2.....	Cincinnati and Q. & C. touching 4 states.
Cairo .....Ill. to East Dubuque, "	544	10.34	.019	Interdivision D-2, I. W. C. 104.....	I. C. via Chicago.
Chicago .....Ill. to Johnstown ....Pa.	544	13.61	.025	Supp. 10 to Chicago Tariff 268, I. C. C. No. 2.....	Penna. touching 4 states.

2014 (*h*) Low Intrastate-Illinois Passenger Fares Control Interstate Commerce Between St. Louis and Points in Illinois.

Lanigan Exhibit 9 shows the ticket sales, that is, one-way tickets, January and June, 1913, 1914 and 1915, all stations in Illinois from and to St. Louis, Mo., East St. Louis, Granite City and Madison, Ill., by 11 roads. These 11 roads were not specially selected. We tried to get all roads, but we did not succeed in getting the figure, from the Chicago, Peoria & St. Louis, Clover Leaf and Vandalia. (799-800)

This exhibit shows that in January, 1915, following the advance in passenger fares between St. Louis and Illinois points that the interstate ticket sales to and from St. Louis dropped off materially.

January, 1914, compared with January, 1915, shows a decrease in the sales of 25,907 tickets and a decrease compared with January, 1913, of 20,862. It shows also that the percentage of ticket sales to and from St. Louis as compared with the ticket sales between Illinois points and East St. Louis, Madison and Granite City and St. Louis decreased from 71.84 per cent. of the whole in January, 1913, to 52.45 per cent. in January, 1915.

In June, 1913, the percentage of sales to St. Louis was 73.03. That dropped to 48.14 in June, 1915. In other words, the sale of tickets in June, 1915, between Illinois points and East St. Louis, Granite City and Madison was greater than the ticket sales between St. Louis and Illinois points. In June, 1915, the condition was absolutely reversed from what it was in 1913. (800-1)

This exhibit demonstrates conclusively that the low rate per mile in Illinois actually controls interstate commerce. (801)

Examiner Gutheim: What is the significance in the decrease of the total number of tickets you show sold in January, 1915, as compared with 1914 and 1913? I understand you refer to these percentages as showing that the present adjustment drives the sales from an interstate character to a state character.

Mr. Lanigan: That is it. (802)

2015 Examiner Gutheim: What I am after is this: is there anything in the present adjustment that keeps people from coming to St. Louis, and does that reflect into this situation?

Mr. Lanigan: Well, there is nothing that would absolutely keep them from St. Louis, but the saving by the purchase of tickets to and from East St. Louis junction is sufficient in my judgment to warrant their buying to that junction and not to St. Louis. (803)

This statement of total ticket sales is somewhat misleading unless you analyze it. It shows that there is a great increase in the bridge tolls which are also included in the totals. By the elimination of the increase of bridge tolls it will be clearly shown that there is a general decrease in all the sales.

Mr. Humburg: Does it not also indicate a greater percentage of travel intrastate-Illinois beginning at East St. Louis, for example, versus interstate beginning in St. Louis by reason of the disparity in the fares?

Mr. Lanigan: It does, yes. (803-4)

Said Exhibit 9 reads as follows:

(Here follows Lanigan Exhibit 9, marked pages 2016 and 2017.)

LANIGAN EXHIBIT 9.

SHOWING NUMBER OF SALES OF ONE-WAY TICKETS, JANUARY AND JUNE, 1913, 1914 AND 1915; ALL STATIONS IN ILLINOIS FROM AND TO ST. LOUIS, MO.; EAST ST. LOUIS, GRANITE CITY, AND MADISON, ILL., BY ELEVEN ROADS.

B. & O. S. W.
C. & A.
C. & E. I.
C. B. & Q.
C. C. C. & St. L.
I. C.
M. & O.
St. L. I. M. & S.
Southern.
L. & N.
Wabash.

	JANUARY, 1913			JANUARY, 1914			JANUARY, 1915.		
	Tickets Number	Percent	Revenue	Tickets Number	Percent	Revenue	Tickets Number	Percent	Revenue
Illinois points and St. Louis	53,842	67 33%	$159,238 93	58,887	70.09%	$176,546.39	32,980	46.66%	$129,874.56
Illinois points and East St. Louis	18,499	23 13	24,349.47	18,150	21.60	23,861 53	25,166	35.61	38,500.20
Illinois points and Granite City	2,416	3 02	3,344 23	2,610	3.11	3,405 00	4,488	6.35	11,477.32
Illinois points and Madison	196	25	210.92	213	25	207.76	245	.35	540.10
Bridge Tolls	5,011	6.27	1,368.64	4,156	4.95	1,143 77	7,797	11.03	2,195.29
	79,964	100.00%	$188,512.19	84,016	100 00%	$205,164 45	70,676	100 00%	$182,587.47
	JUNE, 1913			JUNE, 1914			JUNE, 1915		
Illinois points and St. Louis	61,875	67.37%	$171,830.30	58,205	64.34%	$174,456 10	32,635	41 44%	$113,269.27
Illinois points and East St. Louis	19,779	21.54	26,477.91	21,670	23.95	30,450 09	29,234	37 12	44,435.42
Illinois points and Granite City	2,873	3.13	4,143.59	2,704	2.99	3,899.97	5,570	7.07	13,451.09
Illinois points and Madison	203	.22	283.18	193	.21	164.52	358	.45	790.88
Bridge Tolls	7,106	7.74	1,979.59	7,696	8.51	2,288.20	10,962	13.92	3,215.25
	91,836	100.00%	$204,714.57	90 468	100.00%	$211,258.88	78,759	100.00%	$175,161.91

NOTE. Said Exhibit 9 may be divided in *four parts*, showing:

FIRST.

Decrease in revenue all traffic between Illinois stations and St. Louis, Mo., East St. Louis, Granite City and Madison, Ill., January and June, 1915, compared with same months 1913 and 1914.

	January	June
1913	$188,512.19	$204,714.57
1915	182,587.47	175,161.91
	$ 5,924.72	$ 29,552.66
1914	$205,164.45	$211,258.88
1915	182,587.47	175,161.91
	$ 22,576.98	$ 36,096.97

SECOND.

Estimated decrease in number of passengers carried on one-way tickets sold between stations in Illinois and St. Louis, Mo., East St. Louis, Granite City and Madison, Ill. (including tickets between St Louis, Mo., and East St. Louis, Granite City and Madison, Ill.).

	January	June
1913	79,964	91,836
1915	70,676	78,759
Decrease	9,288	13,077
Increase in Bridge Tolls, 1915	‡2,786	‡3,856
Estimated Decrease	12,074	16,933
1914	84,016	90,468
1915	70,676	78,759
Decrease	13,340	11,709
Increase in Bridge Tolls, 1915	‡3,641	‡3,266
Estimated Decrease	16,981	14,975

‡On the theory that some of the passengers to and from St. Louis, Mo., purchased tickets to and from East St. Louis, Granite City or Madison, Ill., it is assumed that all of the increased "Bridge Tolls" **if not more**, were paid by passengers whose tickets between Illinois stations and East St. Louis, Granite City and Madison are also shown under that heading and should therefore be added to actual **decrease in tickets** to arrive at approximate **decrease in passengers carried.**

THIRD.

Increase in number of tickets sold, 1915, between Illinois stations and East St. Louis, Granite City and Madison, Ill., notwithstanding general decrease as shown in parts 1 and 2.

	January	June
1915	29,899	35,162
1913	21,111	22,855
Increase	8,788	12,307
1915	29,899	35,162
1914	20,973	24,567
Increase	8,926	10,595

FOURTH.

Marked decrease 1915 in percentage of tickets sold to and from St. Louis, Mo., and relative percentage of traffic (based on number of tickets sold), between (1) Illinois stations and *St. Louis, Mo., and (2) between Illinois stations and East St. Louis, Granite City and Madison, Ill.

1913	January	June
To and From St. Louis, Mo.	71.84%	73.03%
To and From East Side Points★	28.16%	26.97%
1914		
To and From St. Louis, Mo.	73.74%	70.32%
To and From East Side Points★	26.26%	29.68%
1915		
To and From St. Louis, Mo.	52.45%	48.14%
To and From East Side Points★	47.55%	51.86%

*Traffic between St. Louis, Mo., and Granite City, East St. Louis and Madison, Ill., not included.

★East Side Points include East St. Louis, Granite City and Madison, Ill.

2018 Lanigan Exhibit 10 shows passenger traffic over the Illinois Central Railroad between Chicago, Ill., and St. Louis, Mo., January to August, 1915, these months being selected because they were the months available at the time the hearing was first st. (805-5)

In the first column is shown the percentage of traffic moving on the interstate fares; the average for eight months shows northbound 56 per cent. of the traffic moved on interstate fares, 34 per cent. on the intrastate fares. Southbound 57 per cent. on an average moved on the interstate fares and 43 per cent. on the intrastate fares, the lowest month being July, where the southbound movement was 50-50.

This also is intended to show that the interstate traffic is controlled by intrastate fares. It shows by comparison, by the study we have made, that only 69 per cent. of our St. Louis and Chicago business in the month of January, for example, northbound, moved on the interstate fares. We arrived at that figure by comparing with the previous year, which is hardly a fair comparison from our point of view, because the business this year is lower; it is off; a natural decline. (805-6)

NOTE. Said supplement to Exhibit No. 10 promised at the hearing has been mailed to the Commission and it is here reproduced. It is marked Lanigan Exhibit 18 and it includes Lanigan Exhibit 10.

Said Lanigan Exhibits 10 and 18 read as follows:

(Here follows Lanigan Exhibit No. 18, marked page 2019.)

LANIGAN EXHIBIT No. 18.
(Includes J. V. Lanigan's Exhibit No. 10.)

ILLINOIS CENTRAL RAILROAD PASSENGER TRAFFIC BETWEEN CHICAGO ILL. AND ST. LOUIS, MO.; ALSO EAST SIDE JUNCTION POINTS (EAST ST. LOUIS AND MADISON, ILL.), JANUARY TO AUGUST, 1914 AND 1915. NUMBER OF TICKETS SOLD AND PROPORTION OF TRAFFIC MOVED ON INTERSTATE AND INTRASTATE FARES

	1914					1915					1915				
	Between Chicago, Ill and St. Louis, Mo.		Between Chicago, Ill and East St Louis and Madison, Ill.		Total Number of Tickets sold between Chicago, Ill , and St. Louis, Mo , East St. Louis, and Madison, Ill.	Between Chicago, Ill. and St. Louis, Mo		Between Chicago, Ill. and East St. Louis and Madison, Ill.		Total Number of Tickets sold between Chicago, Ill., and St. Louis, Mo , East St Louis, and Madison, Ill.	Traffic between Chicago and St. Louis, after deducting estimated normal East St. Louis and Madison Traffic				
	Number Tickets Sold	Percent of Total Traffic	Number Tickets Sold	Percent of Total Traffic		Number Tickets Sold	Percent of Total Traffic	Number Tickets Sold See Note 4	Percent of Total Traffic		Number Moved on Interstate Fares	Percent (See Note 1)	Number Moved on Estimated Intrastate Fares (See Note 2)	Percent (See Note 1)	Total Number of Chicago-St. Louis, Mo. Passengers (See Note 3)
January—North-bound	852	94%	59	6%	911	562	64%	310	36%	872	562	69%	251	31%	813
—South-bound	893	93%	63	7%	956	537	55%	435	45%	972	537	59%	372	41%	909
February—North-bound	731	95%	37	5%	768	438	62%	266	38%	704	438	66%	229	34%	667
—South-bound	827	94%	53	6%	880	446	53%	403	47%	849	446	56%	350	44%	796
March —North-bound	710	95%	37	5%	747	470	58%	342	42%	812	470	61%	305	39%	775
—South-bound	822	94%	51	6%	873	529	53%	460	47%	989	529	56%	409	44%	938
April —North-bound	821	95%	39	5%	860	520	65%	276	35%	796	520	69%	237	31%	757
—South-bound	852	95%	49	5%	901	479	53%	427	47%	906	479	55%	378	45%	857
May —North-bound	887	93%	69	7%	956	551	62%	332	38%	883	551	68%	263	32%	814
—South-bound	940	93%	70	7%	1,010	458	48%	495	52%	953	458	52%	425	48%	883
June —North-bound	1,209	92%	100	8%	1,309	673	65%	364	35%	1,037	673	72%	264	28%	937
—South-bound	916	93%	70	7%	986	622	61%	395	39%	1,017	622	66%	325	34%	947
July —North-bound	1,155	94%	79	6%	1,234	454	54%	391	46%	845	454	50%	312	41%	766
—South-bound	960	95%	55	5%	1,015	416	47%	462	53%	878	416	50%	407	50%	823
August —North-bound	963	92%	80	8%	1,043	483	56%	373	44%	856	483	62%	293	38%	776
—South-bound	1,201	93%	91	7%	1,292	459	50%	450	50%	909	459	56%	359	44%	818
Total Eight Months, North-bound.....	7,328	94%	500	6%	7,828	4,151	61%	2,654	39%	6,805	4,151	66%	2,154	34%	6,305
Total Eight Months, South-bound	7,411	94%	502	6%	7,913	3,946	53%	3,527	47%	7,473	3,946	57%	3,025	43%	6,971

NOTE 1.—The percentage of traffic is fixed by considering the 1914 traffic to East St. Louis, and Madison, Ill , as its normal traffic making no allowance for the general decline in traffic elsewhere and which would undoubtedly affect this traffic were it not for the unusual condition induced by advance in Interstate fares between Chicago and St. Louis.

NOTE 2.—Number of tickets sold after deducting 1914 sales, the latter for purpose of this statement being considered as normal traffic between East St. Louis and Madison, Illinois and Chicago.

NOTE 3.—Total number of tickets sold after deducting 1914 sales between Chicago, Illinois and East St. Louis and Madison, Ill , the latter for purpose of this statement being considered normal traffic.

NOTE 4.—Considering 1914 as representing normal traffic these increase sales indicate the extent to which Intrastate fares are used to move Interstate passengers.

2020 (*i*) Maximum Passenger Fares and Other Data for 48 states. Also Comparison of Passenger Traffic in Illinois on Basis of Density and on Other Bases with the Passenger Traffic in New England, Trunk Line and Central Passenger Association territory on the same Basis.

Lanigan Exhibit 11 shows the maximum passenger fares, railroad mileage and population (1910 census) per mile of road and per square mile for 48 states. All of the fares mentioned here are used for interstate traffic with the exception of Ohio, Illinois, Indiana and Michigan, and excepting also that the western states have fares on a higher basis now under suspension.

It shows that out of a total of 48 states 37 have a higher fare than 2 cents per mile, and with Missouri, January 1, 1916, there will be 38 of such states. (807)

Lanigan Exhibit 12 is a comparison on basis of density and other methods of passenger traffic in Illinois with that in New England, Trunk Line and Central Passenger Association territories. (808)

It shows that for the fiscal year ended June 30, 1914, in New England the average receipts per passenger per mile was 1.783 cents compared with Illinois, 1.748. In Trunk Line territory the average receipt per passenger per mile is 1.737. In Central Passenger Association territory, of which Illinois is a part, the average receipts per passenger per mile, 1.936.

The passenger revenue per train mile in New England territory is $1.426, while in Illinois it is $1.014. (808-9)

In the New England states, where they have generally a higher basis of interstate passenger fares they also have an enormous commutation business to and from the City of Boston which has the effect of materially reducing the passenger fare per mile. (809)

On the New Haven Road alone out of a total of 78,172,698 passengers, 34,214,200 used trip and commutation tickets on which that road earned $3,841,540, out of a total of $27,010,798. The commutation tickets averaged the New Haven Road during this period—that is, for the year ended 1915—.67 cents per mile and the trip tickets 1.02 cents a mile, while on their local tickets, including mileage, they averaged 2.23 cents per mile. In the 1914 report of the Massachusetts Railroad Commission, they show the total passengers handled to and from Boston 74,006,124.

2021

All of this explains the low rate per passenger per mile in New England territory. (809-810)

Data used in Lanigan Exhibit 12 were obtained from the Bureau of Railway Economics in Washington, who had compiled them from the reports made to the Interstate Commerce Commission by the carriers. The other figures were obtained from the General Passenger Agent of the N. Y., N. H. & H. R. Co. (811)

Lanigan Exhibit 13 is a reproduction of Cannon's Exhibit in I. & S. Docket No. 600, and in a measure is in support of Lanigan Exhibit 12. This No. 13 shows density of population and other matters. (811)

Mr. Mullen: Would you say that the density of population in the Eastern territory is greater in proportion to miles of road than in Illinois?

Mr. Lanigan: It is greater per mile of road. (860)

Examiner Gutheim: Is that also shown on your Exhibit 11, population per mile of railroad?

Mr. Lanigan: The population per mile of road in Illinois is 491, in Massachusetts, 1,666, Rhode Island, 2,846, Pennsylvania, 704, Maryland, 941, New Jersey, 1,191, Connecticut, 1,180, New York, 1,141. That is all shown on my Exhibit No. 11. (861)

Mr. Mullen: What do you say as to the density of population in Eastern territory in proportion to passenger train miles as compared to the same thing in Illinois?

Mr. Lanigan: I do not think I have that, Mr. Mullen.

Examiner Gutheim: You have on No. 12 your passenger miles New England, Trunk Line, Central Passenger Association and total, and also for Illinois, and then you have your population on Exhibit 11.

Mr. Lanigan: That could be figured up. (861-2)

Lanigan Exhibit 14 is a map showing the various territorial associations. It is helpful in understanding Lanigan Exhibit 12 to show where in the United States are located the territories
2022 therein named. The Central Passenger Association territory is on and east of the St. Louis-Chicago line and includes the States of Illinois, Indiana, southern Michigan, Ohio, and bounded on the east by Pittsburg and Buffalo. The Trunk Line territory includes the States of New York, New Jersey, Delaware, Maryland and a part of West Virginia; and the New England territory, includes the New England states. (813)

The exhibit shows that Illinois is partly in Central Passenger Association territory and partly in the Western territory. (814)

Said Lanigan Exhibits 11, 12 and 13 read as follows:

LANIGAN EXHIBIT 11.

SHOWING MAXIMUM PASSENGER FARES, RAILROAD MILEAGE AND POPULATION PER MILE OF ROAD AND PER SQUARE MILE FOR FORTY-EIGHT STATES.

No.	STATE	Passenger Fare Per Mile, in Cents	Area in Square Miles	Railroad Miles	Population	Population Per Mile of Railroad	Population Per Square Mile
1.	Ohio	2	40,740	9,654	4,965,169	545	122
2.	Illinois	2	56,043	12,012.7	5,904,043	491	106
3.	Missouri	2	68,727	8,153.4	3,353,983	411	49
4.	Indiana	2	36,045	7,460.6	2,760,792	370	76
5.	Michigan	2	57,480	8,997.7	3,936,618	326	51
6.	Wisconsin	2	35,256	7,656.3	2,419,898	316	44
7.	Oklahoma	2	69,414	6,356.6	1,938,761	305	28
8.	Minnesota	2	80,858	9,025.8	2,181,077	242	27
9.	Iowa	2	55,586	9,916.5	2,322,472	224	40
10.	Nebraska	2	76,808	6,142.1	1,233,122	208	16
11.	Kansas	2	81,774	9,237.8	1,762,573	190	22
12.	Arkansas	2½	52,525	5,329.7	1,659,859	311	32
13.	W. Virginia	2½	24,022	3,845.6	1,306,345	340	53
14.	Rhode Island	2-2½	1,067	203.65	529,665	2,846	543
15.	Massachusetts	2-3	8,039	2,129.8	3,546,705	1,666	441
16.	New Jersey	2½	7,514	2,309.5	2,749,486	1,191	366
17.	Connecticut	2-3	4,820	1,000.8	2,181,793	1,180	245
18.	New York	2-2½	47,654	8,511.3	9,712,954	1,141	204
19.	Pennsylvania	2½	44,832	11,507.5	8,107,942	704	181
20.	Maryland	2½	9,941	1,412.9	1,330,209	941	134

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21.	Delaware	2½	11,965	335.	208,036	621	106
22.	Kentucky	3	40,181	3,754.01	2,236,377	622	58
23.	Tennessee	3	41,687	3,989.78	2,238 128	561	53
24.	Virginia	2½	40 262	4,603.35	2,129,003	464	53
25.	South Carolina	.....	30,495	3,617.85	1,572,285	435	51
26.	New Hampshire	2–4	9,031	1,255.81	436,740	348	48
27.	North Carolina	.....	48,740	5,265.37	2,307,609	438	47
28.	Georgia	.....	58,725	7,404.36	2,736,737	370	46
29.	Alabama	2½	51,279	5,295.84	2,238,614	415	44
30.	Mississippi	3	46,362	4,435.94	1,186,987	419	40
31.	Vermont	2½–3	9,124	1,073.16	359,957	335	39
32.	Louisiana	3	45,409	5,676.76	1,745,658	307	38
33.	Maine	2½–3	29,895	2,270.78	757,936	334	25
34.	Florida	.....	54,851	4,908.27	825,420	168	15
35.	Washington	3	66,836	5,298.72	1,344,686	254	20
36.	California	3–5	155,632	8,182.62	2,667,516	326	17
37.	Texas	3	262,398	15,607.95	4,171,997	268	16
38.	North Dakota	2½	70,183	5,032.54	660,849	131	9
39.	Colorado	3–5	103,658	5,710.30	883,276	154	9
40.	Oregon	3–5	95,607	2,774.02	756,988	272	8
41.	Utah	3–6	82,184	2,082.77	404,735	194	5
42.	Idaho	3–5	82,354	2,663.88	378,818	142	4
43.	New Mexico	2–4	122,503	3,031.64	370,185	122	3
44.	Montana	3	146,201	4,497.29	419,174	93	3
45.	Arizona	4–5	113,810	2,283.02	230.308	100	2
46.	Wyoming	3–5	97,594	1,680.42	163,325	97	2
47.	Nevada	4–6	109,821	2,340.76	94,722	40	1
48.	South Dakota	2½	76,868	4,305.80	643,121	152	8

There are 37 out of a total of 48 States in the United States that have in effect maximum fares higher than 2 cents per mile.

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LANIGAN EXHIBIT 12.

COMPARING ON BASIS OF DENSITY AND ON OTHER BASES, THE PASSENGER TRAFFIC IN ILLINOIS WITH THE PASSENGER TRAFFIC IN NEW ENGLAND, TRUNK LINES AND CENTRAL PASSENGER ASSOCIATION TERRITORIES.

TERRITORY AND ITEM	Fiscal Year 1914	Fiscal Year 1913	Increase 1914 over 1913 (Percent)
New England:			
Passenger miles	2,826,224,096	2,851,763,287	*0 90
Passenger miles per mile of line	381,174	384,216	*0.79
Passenger revenue per mile of line	$6,797	$6,888	*1.32
Passenger train service revenue per mile of line	$7,910	$8,005	*1.19
Passenger revenue per train mile	$1.426	$1.401	1.78
Passenger train service revenue per train mile	$1.659	$1.628	1.90
Average receipts per passenger mile (cents)	1.783	1.793	*0.56
Passengers per train	80	78	2.56
Trunk Line:			
Passenger miles	8,413,678,205	8,236,737,005	2.15
Passenger miles per mile of line	386,573	380,128	1.70
Passenger revenue per mile of line	$6,175	$6,608	1.62
Passenger train service revenue per mile of line	$8,200	$8,029	2.13
Passenger revenue per train mile	$1.211	$1.203	0.67
Passenger train service revenue per train mile	$1.479	$1.462	1.16
Average receipts per passenger mile (cents)	1.737	1.738	0.06
Passengers per train	70	69	1.45

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Central Passenger Association:			
Passenger miles	6,194,955,438	6,027,467,322	2.78
Passenger miles per mile of line	158,582	155,339	2.09
Passenger revenue per mile of line	$3,069	$3,006	2.10
Passenger train service revenue per mile of line	$3,822	$3,774	1.27
Passenger revenue per train mile	$0.995	$0.985	1.02
Passenger train service revenue per train mile	$1.239	$1.236	0.24
Average receipts per passenger mile (cents)	1.936	1.935	0.05
Passengers per train	51	51	....
Total Three Territories:			
Passenger miles	17,434,857,739	17,115,967,614	1.86
Passenger miles per mile of line	255,478	252,103	1.34
Passenger revenue per mile of line	$4,637	$4,580	1.24
Passenger train service revenue per mile of line	$5,662	$5,594	1.22
Passenger revenue per train mile	$1.144	$1.135	0.79
Passenger train service revenue per train mile	$1.397	$1.386	0.79
Average receipts per passenger mile (cents)	1.815	1.817	*0.11
Passengers per train	63	62	1.61
†Illinois:			
Passenger miles	2,114,101,353	2,077,431,317	1.77
Passenger miles per mile of line	212,190	210,604	0.75
Passenger revenue per mile of line	$3,709	$3,646	1.73
Passenger train service revenue per mile of line	$4,760	$4,717	0.91
Passenger revenue per train mile	$1.014	$0.998	1.60
Passenger train service revenue per train mile	$1.301	$1.292	0.70
Average receipts per passenger mile (cents)	1.748	1.731	0.98
Passengers per train	58	58	....

*Decrease. †Twenty-six roads.

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LANIGAN EXHIBIT 13.

GIVING SOME GENERAL STATISTICS FOR CENTRAL TERRITORY, OF WHICH ILLINOIS IS A PART COMPARED WITH NEW ENGLAND TRUNK LINES AND WESTERN TERRITORIES.

(FOR USE IN CONNECTION WITH LANIGAN EXHIBIT 12.)

	Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
	Area Sq. Miles Land (see Note 2)	Area Sq. Miles Land and Water (see Note 2)	Population 1910 (see Note 3)	Railroad Mileage (see Note 4)	Population Per Square Mile (see Note 5)	Population Per Mile of Railroad (see Note 6)	Passenger Fare Per Mile, 1915 (see Note 7)
New England Territory (see Note 1).....	61,976	66,424	6,552,681	7,924	105.7	827	2½–4½ cents
Trunk Line Territory (see Note 1).....	176,190	184,048	24,096,291	32,053	136.7	750	2 –3 cents
Central Territory (see Note 1).....	173,617	175,348	15,591,133	35,103	89.8	444	2½ cents
Western Territory (see Note 1).....	704,690	714,528	17,529,013	71,829	24.9	244	2 –3 cents

2028

AREA PERCENTAGES—Land and Water:

Percentage of the total area of territory for which figures are shown.		Comparison in percents of Central Territory as against other territories.	
Western	62.7%	Central	100.0%
Trunk	16.1%	Trunk	104.9%
Central	15.4%	Central	100.0%
New England	5.8%	Western	407.4%
	100.0%	Central	100.0%
		New England	37.8%

POPULATION PERCENTAGES:

Percentage of the total population in all territory for which figures are shown.		Comparison in percents of population of Central Territory as against other territories.	
Trunk	37.8%	Central	100.0%
Western	27.5%	Trunk	154.5%
Central	24.5%	Central	100.0%
New England	10.2%	Western	112.4%
	100.0%	Central	100.0%
		New England	42.0%

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RAILROAD MILEAGE PERCENTAGES:

Percentage of the total railroad mileage in all the territory for which figures are shown.		Comparison in percents of mileage in Central Territory as against other Territories.	
Western	48.9%	Central	100.0%
		Trunk	91.3%
Central	23.9%	Central	100.0%
		Western	204.6%
Trunk	21.8%	Central	100.0%
		New England	22.5%
New England	5.4%		
	100.0%		

POPULATION PER SQUARE MILE PERCENTAGES:

Percentages based on Trunk Line Territory being 100.0% ; also comparison between Central Territory and each other Territory for which figures are shown. The most densely populated Territory is shown as 100.0%.

Trunk	100.0%	Trunk	100.0%
		Central	65.7%
New England	77.3%		
		New England	100.0%
Central	65.7%	Central	84.9%
		Central	100.0%
Western	18.2%	Western	27.7%

2030

POPULATION PER MILE OF RAILROAD:

Percentages based on New England Territory being 100.0% ; also comparison between Central Territory and each other Territory for which figures are shown. The most densely populated Territory is shown as 100 0%.

NewEngland.....100.0%	New England.....100 0% Central..... 53 0%
Trunk..... 90.7%	Trunk.....100 0%
Central..... 53.7%	Central..... 59 2%
Western..... 29.5%	Central.....100.0% Western..... 54 9%

	New England Territory (see Note 9)	Trunk Line Territory (see Note 9)	Central Territory (see Note 9)	Western Territory (see Note 9)
1. Average population per square mile (see Note 5).....	105.7	136 7	89 8	24.9
2. Average population per mile of railroad (see Note 6).....	827.0	750.0	444.0	244.0
3. Average passenger train revenue per mile of railroad (see Note 8).....	$8,913.00	$7,676.00	$4,110.00	$2,961.00
4. Average number of passengers carried one mile per mile of road (see Note 8).....	431,387	357,779	169,743	124,069
5. Average distance in miles each passenger was carried (see Note 8).....	19.45	,25 45	39.65	44.39
6. Average receipts per passenger per mile (see Note 8).....	$0.01777	$0.01755	$0.01917	$0.01912
7. Average receipts per passenger train mile (see Note 8).....	$1.71160	$1.46420	$1.32070	$1.33303

AVERAGE POPULATION PER SQUARE MILE:
AVERAGE POPULATION PER MILE OF RAILROAD: } Percentages—See pages 64 to 66.

*AVERAGE PASSENGER TRAIN REVENUE PER MILE OF RAILROAD—Percentages:

Percentages bases on New England Territory being 100.0% ; also comparison between Central Territory and each other Territory for which figures are shown. The Territory whose revenue is greatest is shown as 100.0%.

New England	100.0%	New England	100.0%
		Central	46.1%
Trunk	86.1%		
		Trunk	100.0%
Central	46.1%	Central	53.5%
Western	33.2%	Central	100.0%
		Western	72.0%

*AVERAGE NUMBER OF PASSENGERS CARRIED ONE MILE PER MILE OF RAILROAD—Percentages:

Percentages based on New England Territory being 100.0% ; also comparison between Central Territory and each other Territory for which figures are shown. The Territory having the highest average is shown as 100.0%.

New England	100.0%	New England	100.0%
		Central	39.3%
Trunk	82.9%		
		Trunk	100.0%
Central	39.3%	Central	47.4%
Western	28.8%	Central	100.0%
		Western	73.3%

*See Note 3 for basis for these statistics.

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*AVERAGE RECEIPTS PER PASSENGER TRAIN MILE—Percentages:

Percentages based on New England Territory being 100.0%; also comparison between Central Territory and each other Territory for which figures are shown. The Territory having the highest average is shown as 100.0%.

New England	100.0%
Trunk	85.5%
Western	77.9%
Central	77.2%

New England	100.0%
Central	77.1%
Trunk	100.0%
Central	90.2%
Western	100.0%
Central	99.1%

Note 1. Territories referred to comprise the following States:

New England	Trunk Line	Central	Western
Connecticut,	Delaware,	Illinois,	Arkansas,
Maine,	Maryland,	Indiana,	Iowa,
Massachusetts,	New Jersey,	Michigan (Lower),	Kansas,
New Hampshire,	New York,	Ohio.	Michigan (Northern),
Rhode Island,	Pennsylvania,		Minnesota,
Vermont.	Virginia,		Missouri,
	West Virginia.		Nebraska,
			North Dakota,
			Oklahoma,
			South Dakota,
			Wisconsin.

Note 2. Statistics obtained from Department of Commerce Statistical Abstract of the United States. 36th Number, Year 1913. The areas are obtained by the Bureau of Census of the Department of Commerce.

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Note 3. Statistics obtained from Volume IV of the Population Statistics of the 13th Census, Year 1910, issued by the Bureau of Census of the Department of Commerce.

Note 4. Railroad Mileage obtained from Report of the Interstate Commerce Commission on Statistics of Railways for the fiscal year ending June 30, 1911.

Note 5. Figures obtained by application of Column 1 to Column 3.

Note 6. Figures obtained by application of Column 4 to Column 5.

Note 7. Information obtained from Carriers and checked by reference to their tariffs.

Note 8. Averages shown in Items 3, 4, 5, 6 and 7 of General Statistics obtained from Preliminary Abstract of Statistics of Common Carriers, for the year ended June 30, 1914, published by the Interstate Commerce Commission.

Averages based on totals for all roads in each group as follows:

Average Passenger Train Revenue per Mile of Railroad. Divide total passenger train revenue by total railroad mileage.

Average number of passengers carried one mile per mile of road. Divide total number of passengers carried one mile by total railroad mileage.

Average Receipts per Passenger per Mile. Divide the total passenger revenue by number of passengers carried one mile.

Average Receipts per Passenger Train Mile. Divide total passenger train service revenue by number of total passenger train miles.

Note 9. Items 1 and 2 cover all the States in the different Territories as shown in Note 1.
Items 3, 4, 5, 6 and 7 are based on reports of the following railroads.

New England Territory.

Boston & Maine R. R.
Central Vermont Ry.
Maine Central R. R.
New York, New Haven & Hartford R. R.
Rutland R. R.

Trunk Line Territory.

Baltimore & Ohio R. R.
Buff., Roch. & Pitts. Ry.
Central R. R. of New Jersey.
Chesapeake & Ohio Ry.
Delaware & Hudson Co.
Delaware, Lack. & West. R. R.
Erie R. R.
Lehigh Valley R. R.
New York Central R. R.
New York, Ont. & Western Ry.
Pennsylvania R. R.
Philadelphia & Reading Ry.
Western Maryland Ry.
Phila., Balt. & Wash. R. R.
West Jersey & Seashore R. R.
Cumberland Valley R. R.
Long Island R. R.
Northern Central Ry.
Atlantic City R. R.

Central Territory.

Ann Arbor R. R.
Balt. & Ohio R. R.
Bess. & Lake Erie R. R.
Chesapeake & Ohio Ry.
Chicago & East. Ill. R. R.
Chicago & Erie R. R.
Chicago, Ind. & Louis. Ry.
Chicago, Indiana & So. R. R.
Chicago, Peoria & St. L. Ry.
Chicago, T. H. & S. E. Ry.
Cin., Hamilton & Dayton Ry.
Cincinnati Northern R. R.
Cleve., Cin., Chgo. & St. L. Ry.
Detroit & Mack. Ry.
Detroit, Toledo & Ironton Ry.
Grand Rapids & Ind. R. R.
Grand Trunk Western.
Hocking Valley Ry.
Illinois Central R. R.
Kanawha & Michigan Ry.
Lake Erie & Western R. R.
Lake Shore & Mich. So. Ry.
Louisville, Hender. & St. L. Ry.
Michigan Central R. R.
N. Y. C. & St. L. R. R.
Pennsylvania Co.
Pitts. & Lake Erie R. R.
Pitts., Cin., Chgo. & St. L. Ry.
Pere Marquette R. R.
Toledo & Ohio Central Ry.
Toledo, Peoria & Western R. R.
Toledo, St. L. & Western R. R.
Vandalia R. R.
Wabash R. R.
Detroit, Grd. H. & Milw. Ry.

Western Territory.

Chicago & Alton R. R.
Chicago & Northwestern Ry.
Chicago, Burl. & Quincy R. R.
Chicago Great Western R. R.
Chicago, R. I. & Pac. Ry.
Chicago, St. P., Minn. & O. Ry.
Illinois Central R. R.
Minn. & St. Louis R. R.
Minneapolis, St. P. & S. S. M. Ry.
Missouri Pacific Ry.
St. Joseph & Grd. Isl. Ry.
Union Pacific R. R.
Wabash R. R.

This Exhibit based upon Cannon Exhibit in I. & S. Docket 600.

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2035 (*j*) Effect of 1907 Reduction in Passenger Fares on Illinois Central.

Lanigan Exhibit 15 shows the revenue from passengers on the Illinois Central, including the Chicago suburban revenue, the passengers carried, average fare per passenger, average per mile fare, and average number of miles traveled per passenger (814).

It shows the earnings for seven years prior to the enactment of the 2-cent Illinois fare law and the seven years immediately following. It shows that in the first period the passengers carried one mile increased from 1901 to 1907, 33 per cent., and in the second period 35 per cent., showing there was a normal average increase in both periods. It shows that the revenue in the first period increased from 1901 to 1907, 34.3 per cent., while in the second period the revenue increased only 21.1 per cent. It did not maintain the same ratio of increase in the number of passengers carried one mile.

It shows that the average fare from each passenger during the first period of 1901 to 1907 increased 7.1 per cent., while there is a decrease in the second period of 18 per cent.

It shows also that the average receipts per passenger per mile in the first period was 2.1 cents, and in the second period, 1.88. These figures were obtained from our auditor of passenger receipts. They are the Illinois figures that are available in the report to the Public Utilities Commission (814-15).

Said Lanigan Exhibit 15 reads as follows:

LANIGAN EXHIBIT 15.

SHOWING ILLINOIS CENTRAL REVENUE FROM PASSENGERS (EXCLUDING SUBURBAN), PASSENGERS CARRIED AVERAGE FARE PER PASSENGER, AVERAGE PER MILE FARE AND AVERAGE NUMBER OF MILES TRAVELED PER PASSENGER (ALL FOR ILLINOIS), FOR SEVEN YEARS PRECEDING AND SEVEN YEARS SUCCEEDING ENACTMENT OF 2-CENT MAXIMUM FARE LAW.

ILLINOIS CENTRAL RAILROAD.

	Number Passengers Carried	Population	Percent of 1907	Number Passengers Carried One Mile	Percent of 1907	Revenue	Percent of 1907	Average Fare of Each Passenger	Percent of 1907
	PRIOR TO ENACTMENT ILLINOIS MAXIMUM 2-CENT FARE LAW.								
1901	3,593,842	4,911,183	90.81	147,030,379	67.2	$3,067,839.92	65.7	85.364c.	92.9
1902	3,737,942	4,993,921	92.34	159,708,148	73.0	3,471,459.59	74.3	92.871c.	101.1
1903	4,265,048	5,076,659	93.87	175,660,231	80.3	3,851,405.22	82.5	90.302c.	98.3
1904	4,347,981	5,159,398	95.40	190,585,891	87.2	4,136,421.29	88.6	95.134c.	103.6
1905	4,656,996	5,242,136	96.93	255,033,905	116.7	4,897,469.77	104.9	$1.05.164	114.3
1906	4,851,688	5,324,874	98.46	202,748,130	92.7	4,341,900.46	76.6	89.493c.	97.4
1907	5,083,489	5,407,613	100.00	218,454,784	100.0	4,666,896.04	100.0	91.805c.	100.0
	30,536,986			1,349,221,468		$28,433,392.29			
	FOLLOWING ENACTMENT ILLINOIS MAXIMUM 2-CENT FARE LAW.								
1908	5,978,385	5,490,351	101.53	240,231,066	109.9	$4,503,666.98	96.5	75.333c.	82.0
1909	6,394,500	5,573,089	103.06	243,631,738	111.4	4,561,295.04	97.7	71.332c.	77.6
1910	6,755,915	5,655,828	104.58	265,234,994	121.3	4,927,473.71	105.5	72.936c.	79.4
1911	7,170,670	5,738,567	106.12	286,287,530	130.9	5,342,408.99	114.4	74.504c.	81.1
1912	7,381,989	5,821,305	107.65	290,523,605	132.9	5,457,149.42	116.9	73.925c.	80.5
1913	7,507,725	5,904,043	109.18	295,979,023	135.4	5,655,998.49	121.1	75.336c.	82.0
1914	7,745,121	5,986,781	110.71	302,320,122	138.3	5,780,932.38	123.8	74.640c.	81.3
	48,934,305			1,924,208,078		$36,228,925.01			
Increase	18,397,319			574,986,610		$7,795,532.72			

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Percent of Increase	60.25% Average Fare of Each Passenger	42.62% Average No. Miles Traveled by Each Passenger	27.42% Average Receipts Per Passenger Per Mile
First Period.....	93.111c.	44.18	2.107c.
Second Period.....	74.036c.	39.32	1.883c.

EXPLANATORY NOTE—POPULATION.

The population of Illinois was ascertained by the United States Census Bureau, on June 1, 1900, as 4,821,550, and on April 15, 1910, as 5,638,591. The estimates herewith shown are arrived at by distributing the increase from 1900 to 1910, over the intervening years on a pro-rata basis. The estimates for 1911, 1912, 1913 and 1914, are those made by the Census Bureau.

2038 (*k*) Percentages of Interstate and Intrastate Passengers Carried One Mile on Six Representative Illinois Central Trains, and the Percentage of Revenue Interstate and Intrastate Derived Therefrom.

Lanigan Exhibit 16 shows the number of intrastate and interstate passengers carried, the number of passengers carried one mile and passenger revenue Illinois Central Railroad, not including suburban revenu, State of Illinois, for six representative trains for a period of five days extending from the latter part of September into the fore part of October, 1915 (816).

We selected five days because that was all we could work up in the time at our disposal and also because the figures are not kept in this instance, but must be taken from the conductors' collections as they are turned in. The particular trains were selected because they were felt to be fairly representative. We selected the night trains between St. Louis and Chicago and the day trains between St. Louis and Chicago. They are our Nos. 17 and 18, 19 and 20. Train No. 2 is one of our best New Orleans-Chicago trains and traverses the State of Illinois during the day, whereas No. 10, another equally important train from Jacksonville and Birmingham to Chicago, traverses the State of Illinois during the night.

This exhibit shows the percentage of intrastate passengers handled on these interstate trains. It shows also that our best train service serves the intra-and-interstate passengers alike. For instance, Train No. 2 shows that 77.4 per cent. of the passengers handled on that train for the mileage in Illinois were intrastate passengers. On the night train, however, No. 10, the per cent. of intrastate passengers is 39.5. On the whole of these six important trains 55 per cent. of the passengers handled over the Illinois mileage were intrastate passengers (817-18).

The principal deduction I draw from Exhibit 16 is that these interstate trains served intrastate and interstate passengers with the same character of service and that the interstate trains are not used altogether by interstate passengers but are used to a large degree by the intrastate passengers, in fact, by greater numbers of intrastate passengers than interstate passengers.

2039 These trains serve all kinds of passengers; they are not necessarily local trains, nor are they necessarily through trains. They are trains that happen to have origin and destination that cause them to be interstate trains. They serve all passengers alike. (847-8)

We have steel cars in these through trains as well as on the local trains; we use steel cars as much on the short line local trains as we do on the through trains because we are gradually getting into a condition where we will have eventually all steel. We have some trains in Illinois absolutely local that do not touch outside of the state and the character of equipment is in every respect as high class as these. (849-50)

These are our better trains. We show here in this exhibit that the

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intrastate passenger enjoys the same character of service as the interstate passenger, that there is no difference. (850-1)

Mr. Thorne: Have you ever made any attempt to find out the proportion of state and interstate passengers on these local trains?

Mr. Lanigan: Yes; we have another exhibit here that reflects the condition. (852-3)

Lanigan Exhibit 17 shows the number of intrastate and the interstate passengers carried one mile by operating divisions, on the Illinois Central Railroad main lines and branches in the State of Illinois, for July, 1915, suburban revenue excluded.

The second section of this exhibit, the lower part, shows a separation as between the so-called Charter lines of the Illinois Central, which comprises 705½ miles. These figures are shown in this way because they are required to be kept separate in connection with the Charter tax, but it so happens that the Charter lines are practically all main lines, Chicago to Cairo being the principal line south, Freeport to Centralia and West Junction to East Dubuque, and it shows that of the total passenger traffic over these principal main lines, 57.6 per cent. was made up of intrastate traffic, and it shows that all of the main line interstate trains serve the intrastate passengers alike with the interstate passengers. In other words, there is no difference between the character of service and it is largely used by the
2040 intrastate passengers. (818-19)

This Exhibit 17 classifies the Illinois Central by operating divisions. It shows the business on so-called Charter lines which are principally main lines, and the other lines are shown for themselves. (853) In Illinois on the so-called Charter lines which are practically main lines, it shows that of the total 57.6 per cent. is intrastate and that of the balance of Illinois, which would include our other lines in Illinois, 65.9 is intrastate. (854)

Said Exhibits 16 and 17 read as follows:

LANIGAN EXHIBIT 16

SHOWING NUMBER OF INTRASTATE AND INTERSTATE PASSENGERS CARRIED, NUMBER OF PASSENGERS CARRIED ONE MILE AND PASSENGER REVENUE, STATE OF ILLINOIS, FOR SIX REPRESENTATIVE TRAINS, FOR PERIOD OF FIVE DAYS, EXTENDING FROM THE LATTER PART OF SEPTEMBER INTO THE FOREPART OF OCTOBER, 1915.

ILLINOIS CENTRAL RAILROAD (SUBURBAN EXCLUDED)

	INTRASTATE				INTERSTATE				TOTAL	
	Number Passenger	Percent	Passenger One Mile	Percent	Number Passenger	Percent	Passenger One Mile	Percent	Number Passenger	Passenger One Mile
Train No. 17—Chicago to St. Louis.	265	58.7	36,844	44.0	186	41.3	46,881	56.0	451	83,725
18—St. Louis to Chicago.	330	67.1	39,808	48.9	162	32.9	41,533	51.1	492	81,341
19—Chicago to St. Louis.	573	72.6	38,642	46.7	216	27.4	44,124	53.3	789	82,766
20—St. Louis to Chicago.	540	76.8	43,096	60.5	163	23.2	28,123	39.5	703	71,219
2—Centralia to Chicago.	1,750	93.2	96,065	77.4	127	6.8	28,001	22.6	1,877	124,066
10—Centralia to Chicago.	273	58.5	26,930	39.5	194	41.5	41,241	60.5	467	68,171
Total.....	3,731	78.1	281,385	55.0	1,048	21.9	229,903	45.0	4,779	511,288

PASSENGER REVENUE.

	Intrastate	Percent	Interstate	Percent	Total
Train No. 17—Chicago to St. Louis.....	$ 726.93	41.4	$1,028.59	58.6	$1,755.52
18—St. Louis to Chicago.....	784.47	48.2	841.32	51.8	1,625.79
19—Chicago to St. Louis.....	751.41	45.8	889.27	54.2	1,640.68
20—St. Louis to Chicago.....	863.14	60.6	561.79	39.4	1,424.93
2—Centralia to Chicago.....	1,912.14	77.8	544.51	22.2	2,456.65
10—Centralia to Chicago.....	536.19	36.9	915.03	63.1	1,451.22
Total.....	$5,574.28	53.8	$4,780.51	46.2	$10,354.79

Actual Dates of the Trains for which the Figures were Compiled.

No. 17—September 28th to October 2d.
No. 18—September 28th to October 2d.
No. 19—September 28th to October 2d.
No. 20—September 28th to October 2d.
No. 2—September 30th to October 4th.

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LANIGAN EXHIBIT 17

SHOWING NUMBER OF INTRASTATE AND INTERSTATE PASSENGERS CARRIED ONE MILE BY OPERATING DIVISIONS, MAIN LINES AND BRANCHES, STATE OF ILLINOIS, JULY, 1915.
ILLINOIS CENTRAL RAILROAD (SUBURBAN EXCLUDED).

	Intrastate	Percent	Interstate	Percent	Total
Illinois Division:					
Main Line—Chicago to Centralia	5,091,133	57.5	3,769,724	42.5	8,860,857
Main Line—Gilman to Clinton	462,349	58.7	324,642	41.3	786,991
Branches—Kankakee to Bloomington and Minonk	372,131	99.2	2,996	.8	375,127
St. Louis Division:					
Main Line—Centralia to Cairo	1,359,557	43.7	1,750,852	56.3	3,110,409
Main Line—St. Louis to Carbondale	1,152,197	59.3	791,543	40.7	1,943,740
Branches—Carbondale to Paducah, Pinckneyville to Mound City and Eldorado, Sand Ridge to Johnston City, etc.	1,174,915	90.5	123,497	9.5	1,298,412
Springfield Division:					
Main Line—Clinton to Centralia	780,385	97.9	16,408	2.1	796,793
Main Line—Clinton to St. Louis	767,906	49.6	779,944	50.4	1,547,850
Branches—Champaign to Havana, White Heath to Decatur, West Lebanon to LeRoy	410,558	98.9	4,719	1.1	415,277
Indiana Division:					
Main Line—Peoria to Evansville	1,333,617	89.1	163,453	10.9	1,497,070
Wisconsin Division:					
Main Line—Freeport to Clinton	1,383,408	88.7	176,198	11.3	1,559,606
Main Line—Chicago to Freeport	1,346,107	53.6	1,165,037	46.4	2,511,144
Branches—Freeport to Madison and Dodgeville	53,685	38.5	85,720	61.5	139,405
Minnesota Division:					
Main Line—West Junction to East Dubuque	361,665	28.2	919,264	71.8	1,280,929
Total	16,049,613	61.4	10,073,997	38.6	26,123,610

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INTRASTATE AND INTERSTATE PASSENGER REVENUE, STATE OF ILLINOIS, SEPARATED AS BETWEEN THE SO-CALLED CHARTER LINES AND THE BALANCE OF ILLINOIS IN WHICH MANNER THE INFORMATION WAS AVAILABLE, FOR JULY, 1915. ILLINOIS CENTRAL RAILROAD (SUBURBAN EXCLUDED).

	Intrastate	Percent	Interstate	Percent	Total
Chicago to Cairo	$124,447.37	53.8%	$106,928.85	46.2%	$231,376.22
Freeport to Centralia	42,643.00	91.5	3,955.57	8.5	46,598.57
West Junction to East Dubuque	6,708.24	28.0	17,216.97	72.0	23,925.21
Total Charter Line	$173,798.61	57.6%	$128,101.39	42.4%	$301,900.00
Balance of Illinois	$135,450.40	65.9%	$ 70,227.99	34.1%	$205,678.40
Total	$309,249.02	60.9%	$198,329.38	39.1%	$507,578.40

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2044 (*l*) In General.

Mr. Lanigan testified further: If the fares between points in Illinois were raised to the level of the fares now in effect between St. Louis and points in Illinois, there could be no question whatever about undue preference or unjust discrimination. (822)

The Illinois Central has on file with the Interstate Commerce Commission tariffs naming fares between points in Illinois, but they are not the fares based on 2 cents per mile. The 2-cent fare intrastate-Illinois is not on file with the Interstate Commerce Commission. (823)

In looking into the Pullman charges to determine what effect, if any, the reduction in charge for the upper berths might have upon the sale of that particular accommodation, we find practically no change in the demand for the cheaper accommodation following the reduction by the Pullman Company, effective February 1, 1911, and figures obtained from the Pullman Company show that the demand for upper berths for the year ending July 31, 1908, were 19.61 per cent. of the whole, in 1909, 19.55 per cent., in 1910, 18.76 per cent., in 1911, 18.75 per cent., and in 1912, which was the year following the reduction, 18.08 per cent., showing that the American traveling public is a discriminating public and is willing to pay the price for better service. It shows that even with the reduction in the price of upper berths, the demand for that service is about the same as it was before the reduction, or a little lower, if anything; that the American traveler likes to get the best and is willing to pay for it. (823-4) These data were obtained from the General Ticket Agent of the Pullman Company. (824)

Lanigan Exhibit 19 is submitted for convenience of the Commission. It corrects inaccuracies in tariff references shown in Versen's Exhibits 15 and 27. (820)

Mr. Humburg: What opinion, if any, have you to express concerning the reasonableness per se of the present interstate fares between St. Louis and points in Illinois, and what concerning the reasonableness of the present intrastate-Illinois fares, and upon what ground do you predicate any opinion you may express?

2045 Mr. Lanigan: Well, based upon my experience and the special investigation made as the result of this complaint, and based on the data submitted, I would strongly conclude that the 2½-cent basis is not unreasonably high; and further, that by comparison of the Illinois fares with the fares in effect elsewhere, especially in the Eastern Trunk Line and New England territories, where the density of population is much greater than in Illinois, the 2½ cents is very reasonable compared with the prevailing rates in those territories. I base that also upon the expression of the Interstate Commerce Commission in its Fourth Section Order No. 899, where it expressly authorized, at least indicated, that 2½ cents a mile would be a reasonable and an acceptable basis for interstate traffic between all points in Central Passenger Association territory, including St. Louis. The 2½ cents also seems reasonable, in view of the improved passenger service, the more expensive equipment,

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the general tendency to increase the cost of producing the passenger service, and many other reasons. It follows that if 2½ cents is a reasonable rate, 2 cents would be unreasonably low. (825-6)

One of the additional reasons for reaching that conclusion is the consideration given by the Commission in the Five Per Cent. Case wherein the Commission stated that the roads were not getting as much revenue out of their passenger business as they should and that the passenger fares generally should be advanced. Further, that in the case of fares in Massachusetts the whole question of fares was gone into thoroughly by the Massachusetts Commission. Finally, the passenger service is on a reasonably high standard, more expensive equipment is necessary to meet safety and other demands of progress and the natural desire of the public for betterments. These, together with other reasons and testimony of other witnesses, lead me strongly to conclude that the 2½-cent basis is not unreasonable; that the 2-cent intrastate basis is unreasonably low, improperly places a burden upon interstate commerce and in a substantial degree defeats the lawfully filed interstate tariffs and to that extent the state-made 2-cent fares actually regulate the charges made on interstate traffic. (876-8)

2046 (*m*) Lanigan's Cross-examination and Redirect Examination.

Mr. Lanigan testified further on cross-examination: For a number of years prior to 1914 there was a substantial uniform relation between the rates to Illinois points from St. Louis and the rates to Illinois points from the east side of the Mississippi River; and that has been true as between Chicago rates to Illinois points and St. Louis rates to Illinois points for equal distances. There has been no lessening of the burden upon the carriers in operating between St. Louis and Illinois points or between Chicago and Illinois points; and there has been no increase in the charges of the Terminal Association to the Illinois Central or the east side roads to get into St. Louis since 1914. (827-8)

In the matter of discrimination in fares, I refer solely to that which results from the Illinois 2-cent fare law and from the carrier's involuntary act.

Mr. Bryan: In other words, you think that discrimination an undue discrimination?

Mr. Lanigan: It is, and would not be there if the carriers could make their own adjustment of fares. (829)

Mr. Bryan: You mentioned in connection with one of your exhibits that a passenger could go farther from Chicago into Illinois territory than from St. Louis into Illinois territory for the same fare.

Mr. Lanigan: Yes, sir.

Mr. Bryan: That has a tendency to increase the Chicago business territory as against the St. Louis business territory, has it not?

Mr. Lanigan: I should say so. (829)

Prior to the advance in 1914, the rates, generally speaking, from St. Louis to Illinois points were made by the addition of the fare from St. Louis to East St. Louis added to the Illinois intrastate

fares so that the fares from St. Louis were invariably 25 cents higher than the fares from East St. Louis to Illinois points. That was the only difference. (830-1)

The trains that generally serve St. Louis and East St. Louis afford identically the same facilities. There is a difference
2047 in the number of trains serving the two cities to and from points in Illinois; but there is no difference in the service. The character of the service is the same. (834)

The difference in price between the upper berths and lower berths is that the upper berths are 20 per cent. cheaper.

Mr. Ropiequet: Are not the trains better on the St. Louis than East St. Louis trains, on the trains that do not stop?

Mr. Lanigan: I do not know of any. (838)

The fare over the Eads bridge is 25 cents between St. Louis and East St. Louis and the fare between St. Louis and Granite City is 35 cents; between St. Louis and Madison, 35 cents; these charges are not unreasonably high; I should say that this does not bring an adequate profit to the carriers, paying costs and a reasonable profit. (845)

Mr. Lanigan testified further on cross-examination: Effective December 1, 1912, the carriers made a revision in their passenger fares to conform to the provisions of the Fourth Section of the Act to Regulate Commerce. (858) The effect of that change was to cut out the fares in excess of 2½ cents per mile. It seems that when the Interstate Commerce Act was amended the carriers in Central Passenger Association territory could not revise all of their fares and they petitioned the Commission from time to time for an extension. Several extensions were granted, but finally the Commission said that the roads would have to reduce all the fares in excess of 2½ cents per mile, so that caused the adjustment as of December, 1912. Now, the adjustment of May 1, 1914, was to eliminate the fares in excess of the aggregate of the intermediate fares in compliance with Section 4 of the act. In the construction of passenger fares from various points in Illinois to St. Louis a bridge toll is included in all fares. (859)

Mr. Humburg: You were asked by Mr. Bryan whether there had been any increase in the expense of handling passenger traffic from St. Louis over East St. Louis and you answered in the negative. Is it correct to say you meant there had been no relative in-
2048 crease St. Louis over East St. Louis in recent years?

Mr. Lanigan: Yes; there has been no relative increase. (871-2)

Mr. Humburg: There is, of course, a greater expense attached to the service to and from St. Louis than to and from East St. Louis?

Mr. Lanigan: Naturally, yes. (872)

Mr. Humburg: Referring to the question asked of you by Mr. Ropiequet, is it true that in proportion to population there are as many or more trains into and out of East St. Louis than into and out of St. Louis to points in Illinois?

Mr. Lanigan: I have not made any calculation, but offhand I should say yes.

Mr. Humburg: Referring to the question concerning the use of the local train or the through train, has it been your observation that where the carriers operate different trains stopping at the same place ordinarily the passenger chooses the better train, other things being equal?

Mr. Lanigan: If he has good judgment, he does. (873)

Mr. Humburg: Suburban traffic was mentioned. Those are principally short runs within the limits of the City of Chicago, are they not?

Mr. Lanigan: Yes. (874)

Mr. Humburg: Reference was made to the Fourth Section Order 899 and the Supplemental Order 2120. I wish you would for purpose of identification read into the record the substance of that order.

Mr. Lanigan: "The Commission is also of the opinion that while the petitioners herein should be permitted to continue their present fares that are higher than the sum of the intermediate fares, such fares ought not to be exceeded, and that in view of the fact that the general basis for interstate fares in this territory (meaning Central Passenger Association territory) is approximately 2½ cents per mile, said through fares should not exceed this amount." (875-6)

2049 *Section* 10. *McNamara's Evidence Concerning Passenger Service, and Other Matters.*

Mr. McNamara's evidence shows, among other things, that all of the 2-cent passenger fare laws were enacted about the same time, viz., by legislatures convening during the winter of 1906-7; that immediately prior thereto the Illinois maximum passenger fare was 3 cents per passenger per mile; that the Wabash was not called upon to show anything before the Illinois legislature concerning passenger earnings; that notwithstanding the reduction in fares and net revenues, the carriers have greatly improved their service and increased the convenience and safety of passenger travel at great expense since 1907; that the wages of employes engaged in conducting the passenger service are higher now than they were then; that the reduction of fares has not stimulated travel to the extent of making up in numbers of passengers what was taken off in the measure of the charge; that the great increase in the number of tickets sold for travel to or from East St. Louis and Granite City indicates the extent to which on the Wabash interstate fares are being evaded and interstate traffic is being interfered with; that the effect of interurban and automobile competition, especially for short distances, has made heavy inroads on the respondents' passenger revenue; that there is now existing unjust discrimination against interstate commerce to and from St. Louis and undue preference in favor of intrastate-Illinois commerce.

(a) Enactment of 2-cent Fare Laws, Great Improvement in the Service at Large Expense, Notwithstanding Reduction in Fares.

Mr. J. D. McNAMARA testified: I have been general passenger agent of the Wabash since 1908; entered the service of the C. B. & Q. at Keokuk in 1885 as a clerk in the ticket auditor's office;
2050 from 1891-3 was division clerk in the auditor of passenger accounts office at St. Joseph; from 1893-6, chief clerk in the general passenger agent's office at St. Louis; then general southwestern passenger agent for the C. B. & Q. at Kansas City; from 1906-8 assistant general freight agent of the Wabash, and since 1908 general passenger agent. During all of this time I have given thought and attention to the study of passenger business and that study has embraced the territory from St. Louis and east thereof. (883-5)

The Wabash Railroad operates between the Missouri River cities on the west and Detroit, Toledo and Buffalo on the east. I was connected with the Wabash on July 1, 1907, when the Illinois 2-cent fare law became effective; at about the same time, 2-cent passenger laws were passed in Indiana (in 1907) and in Ohio (March, 1906). These laws went into effect about the same time; they were all passed by the legislatures convening in the winter of 1906-7. (884-5)

Mr. Brown: Were you familiar with what were purported to be the causes of these passenger deductions in these various states at that time?

Mr. McNamara: Well, we had a lot of thought about that. There seemed to be a general wave of anti-railroad legislation sweeping over the country at that time.

So far as I know there was no exhaustive investigation made by the legislatures. The Wabash was not called upon to show anything concerning its passenger earnings before the legislature of Illinois which passed the 2-cent fare. (886)

Mr. Brown: What effect did the reduction in the passenger fares in Illinois and these other states have on the quantity or character of the train service that your line offered?

Mr. McNamara: Generally speaking, there was no reduction in the railroad service; they have performed about the same service since that time, 1907. In fact, there has been a material and constant improvement in the service since then. Train schedules generally in the Central Passenger Association territory are faster than they were nine years ago. Many of the through trains are equipped with solid steel cars, and to many of the wooden cars there have been applied steel underframe and steel ends. A great many of the
2051 Pullman cars operated today are solid steel and to the more modern wooden sleepers of the Pullman Company have been added steel underframe and steel ends. Passenger trains today are better lighted. All of the Pullman cars, with scarcely any exceptions, are lighted with electricity. The cars are heavier, the passenger cars of the railroads generally, and the Pullman cars are heavier, and consequently require heavier locomotive power. We were not

able to save any substantial passenger train mileage after the 2-cent fares took effect. (887-8)

Prior to that time the maximum fare was 3 cents per passenger per mile. (888)

This improvement in service and the change in character of trains have taken place in large part since the 2-cent fare laws went into effect. More block signals have been added, and heavier rails and with heavier rails are required more ties, more ballast, heavier bridges, heavier power, additional second trackage, longer passing tracks, better passenger stations, and great expense has resulted from the separation of grades. Heavier locomotives are being used today on the larger trains than were used in 1906. (889)

Mr. Brown: Are you able to state generally whether the expense of equipping and putting these trains in service and the roadbed and its equipment is as great or greater than it was prior to the time you refer to?

Mr. McNamara: It is greater.

Mr. Brown: Are you able to state in a general way what, if any, change has taken place with respect to the wages of the employes who handle these passenger trains?

Mr. McNamara: I know generally that the wages of all employes on passenger trains are higher than they were in 1906. There have been at least two advances in the scale of wages since 1906. (888-9)

2052 (*b*) Reduction of Fares Has Not Stimulated Travel to Extent of Making Up in Numbers of Passengers What Was Taken Off in Measure of the Charge.

Mr. Brown: It is sometimes asserted that the 2-cent fare stimulated passenger travel and made up in numbers what it took off in revenue per mile. What is your experience?

Mr. McNamara: I do not think that theory has been proven out. We kept a record in Illinois when the 2-cent law went into effect July 1, 1907, and for the year ending June 30, 1907, the Wabash carried in Illinois 1,488,378 passengers and received a revenue of $806,210.

In 1908, the first year of the 2-cent law, the Wabash carried 1,672,465 passengers, or 12.3 per cent. more than in 1907, and received $797,599, or a decrease in revenue of 1 per cent.

In 1908 the Wabash carried 1,779,545 passengers, an increase of 19.5 per cent. over 1907, and received therefor $796,185, a decrease in revenue of 1.2 per cent. over 1907.

In the statistics compiled in the Five Per Cent Case, 31 I. C. C., there was no separation of that part of the territory called the Central Passenger Association from the 35 systems of the Official Classification territory, but it is interesting to note that at page 349, Chart J, for the fiscal year ending 1907, the passenger miles were 13,481,000,000, in round figures 1,000,000,000 more miles than for 1906, while for 1908 the passenger miles were 13,854,000,000, but 373,000,000 more miles of travel during the period in the Central Passenger Association territory when the 2-cent rate generally became effective,

hile the year 1909 shows 13,490,000,000 miles, or about the same
avel as in 1907.
In my opinion, people travel only when they have good reason to
avel, and are not particularly interested in the rate per mile. That
why we fear the automobile. I do not think anybody can contend
ou can travel cheaper in the automobile than on the steam railroad
2½ cents a mile. In fact, a gentleman told me last week his auto-
obile travel cost him a dollar a mile, and he was a lawyer, too.
899-900)
In answer to a question propounded by Mr. Thorne concerning
passenger revenue of the Wabash for various years, Mr. Mc-
053 Namara submitted the following, showing the number of
passengers carried by the Wabash: In 1907, 5,250,400 pas-
ngers; in 13, 6,012,700; in 1914, 6,073,751, and in 1915, 5,
30,002 passengers.

e) Increase in Wabash Ticket Sales at Granite City and East St.
Louis Because of Lower Intrastate Than Interstate Basis.

Mr. McNamara testified further: Effective December 1, 1914, the
res were raised between St. Louis and Illinois points from 25 cents
er the 2-cent rate in Illinois to 25 cents over the 2½-cent rate in
linois.
There were sold by the Wabash for transportation from East St.
ouis to Chicago:
From Dec. 1, 1913, to Sept. 1, 1914, 226 tickets.
Dec. 1, 1914, to Sept. 30, 1915, 610 tickets.
170 per cent. increase.
There were sold by it for transportation from Granite City to Chi-
ago during the same 10 months, 1913-1914, 242 tickets.
During the same 10 months, 1914-1915, 2,370 tickets.
879 per cent. increase.
There were sold by it for transportation from Chicago to East St.
ouis during the same 10 months, 1913-1914, 672 tickets.
During the same 10 months, 1914-1915, 2,168 tickets.
221 per cent. increase.
There were sold by it for transportation from Chicago to Granite
ity during the same 10 months, 1913-1914, 311 tickets.
During the same 10 months, 1914-1915, 2,068 tickets.
561 per cent. increase.
We see a lot of the rebuy. You would be amazed at the people
ho go from St. Louis to East St. Louis or Granite City to save the
ifference in the rate and at the people who come from Chicago and
et out early in the morning at Granite City and East St. Louis to
ave the difference in the rate. (918)
Mr. Brown: A passenger that is traveling with checked baggage,
hat is his condition with respect to the passenger who has a hand
bag?
054 Mr. McNamara: He has a lot of trouble. We don't check
his baggage; of course, we can't legally check it; we can't
ake his reservation; and we won't have anything to do with him as

an interstate passenger. He goes over on one train with his baggage perhaps and has it taken off and has it re-checked and gets on the other train. The same is true coming from Chicago. Wet get many complaints about it. It is awful. These fellows are raising the devil with us all the time on the train. (918)

(*d*) Effect of Interurban and Automobile Competition Has Been, and Will Be to Reduce Materially the Carriers' Passenger Revenue.

Mr. McNamara testified further: There has been a very extensive building of interurban lines in Indiana and Illinois in the past 7 or 8 years. I went into that pretty thoroughly several years ago. In my opinion the Wabash Railroad loses to interurban line competition for the entire Wabash—and that is altogether east of Chicago and St. Louis, because there is no interurban competition west of Chicago and St. Louis except in one spot between Kansas City and Excelsior Springs—about $500,000 a year in its passenger revenue. In making that figure I have allowed for the loss of that local travel and the normal increase in that local travel. (890)

The Illinois Commissioners' report for 1907 shows at pp. 286-7 that on June 30, 1907, there were 1,183.70 miles of electric railroads in Illinois, and that on June 30, 1913 (per pp. 128-9 of the Commission's report for that year) there were then 1,561.60 miles, embracing 68 different companies. The map marked McNamara Exhibit 1 is the Railroad Commission's official map and shows in red lines, with small dots through them, the electric lines. (891) The map is dated 1910 and probably does not show all the lines (as of the present time).

Referring to our experience with electric competition, when the line between Kansas City and Excelsior Springs was built, we immediately lost all of our business between those points, amounting to about $65,000 per year, although we made the same rate as the electric line and took the people to the Union Depot in Kansas City at 5 cents less than the electric took them up town, and we
2055 started closer in Excelsior Springs than the electric line, we could not hold the business and we cannot hold the business on the short hauls. (893)

We have encountered the same experience in Illinois to a greater degree, because of the good sized towns where we are paralleled by the electric lines. For example, between Springfield and Decatur and from Decatur over to Danville and over to Champaign, at Litchfield, and coming down through Mount Olive and Staunton to St. Louis and East St. Louis. The Wabash is paralleled by electric lines from St. Louis to Litchfield, and from Springfield to Decatur and up through Bement, Monticello, Champaign and down to Danville. This competition is in the heart of the Illinois territory. (894)

I have given study to the effect of the automobile on the steam passenger business. We are really alarmed at the growth of the automobile, and I fear more the effect of the automobile on the Wabash local passenger business than I do the interurban lines. Bad as the interurban is, I believe the automobile is going to be worse

for us. Between local points 25 to 50 miles apart where the roads are good there has been a marked falling off in our local earnings. I took a number of good size points between 25 and 35 miles apart, and for 1914 and 1915 I have not found a single place where we had as many tickets or as much revenue as we did for 1912 or 1913, and all of our reports indicate a falling off in traffic due to the automobile.

Aside from the local travel there are other reasons why the automobile affects us. Many people have gone to resorts in their automobiles. We have been denied that tourist travel in the summer time. Many others who ordinarily go away have stayed at home and bought an automobile and toured around and many paid the cost of the automobile by not taking the trip. (894-5)

Illinois has issued licenses for registered automobiles as follows: 38,269 for 1911; 68,012 fo r1912; 94,656 for 1913; 131,140 for 1914, and 183,549 for 1915. (894-5)

We made reduced fares of one cent per mile for the State Fair, just as we have always done since 1907. At the State Fair in Springfield, Ill., in 1915, there were 2,700 automobiles entering the grounds. It is estimated that they brought 13,500 people, five to the car, and many of them probably came from points from
2056 which the railroads formerly hauled them. (897-8)

(*e*) McNamara's Cross-Examination.

Mr. McNamara testified further on cross-examination: It does not cost the Wabash any more relatively to do business between St. Louis and East St. Louis now than it did before the increase in interstate fares went into effect on December 1, 1914. I presume our terminal costs may be up some on account of the general rise in the scale, car cleaning, wages of switchmen, and things of that character, which may have advanced, but in the general scale of things it is not any more. We pay no more to the Terminal Association per passenger than we did before 1914. That represents the difference in the expense of operating between St. Louis and Illinois points and east side points and Illinois points intrastate. (902-3)

Mr. Bryan: Your charge for carrying a passenger from Chicago to a point 100 miles in Illinois is less than for carrying a passenger from St. Louis to a point 100 miles in Illinois?

Mr. McNamara: That is true.

Mr. Bryan: What different service do you perform in the one case from what is performed in the other, if any?

Mr. McNamara: Well, I do not know that it is any different.

Mr. Bryan: The same service, is it not?

Mr. McNamara: Yes.

A man gets on at St. Louis going to Chicago and he pays $7.50, and if another man inconveniences himself and goes over on another train, goes to East St. Louis or to Granite City on the street car, he will get up to Chicago, for example, for $5.65.

My observation is that about 25 per cent. of the passengers are riding to the east side, going to Chicago and coming from Chicago, so there is certainly a discrimination against the 75 per cent. that are

paying the $7.50 rate, and they ride on the same train. I have compiled some figures of our own here on East St. Louis.

2057 Mr. Bryan: There is discrimination in favor of Chicago against St. Louis for the reason there is a lesser rate charged for 100 miles out of Chicago to Illinois points than there is charged for 100 miles out from St. Louis to Illinois points?

Mr. McNamara: Yes, sir; I would say so. (915-16)

There is not any reason for a service standpoint whereby we could haul the man out of Chicago any cheaper than we haul the man out of St. Louis. (916)

We have had a 2½-cent a mile basis in Illinois on a great bulk of the interstate business and in some instances as high as 3 cents a mile in the construction of our interstate rates; 2½ cents in Indiana; and in Missouri for a long while we enjoyed 2½ cents and during that period we had a very good rate for the reason that when we had 3 cents in Missouri we also had a 2-cent mileage book and when we went to the 2½ cents voluntarily we had no mileage book; everybody paid 2½ cents; and that helped our scale amazingly.

Mr. Thorne: Then, aside from these interstate scales would it be your judgment, on the intrastate travel the result of these (state) laws has been to make the fare more uniform and remove the special fares that existed before, while at the same time it removed the 3-cent fares that existed before?

Mr. McNamara: Well, it is true that we have an average rate. We have a uniform rate; but we have had the same hue and cry for reduced rates under the 2-cent law that we had under the 3-cent law, for conventions and things of that kind. It is more uniform, and I know the railroad does not do as well under it as to revenue. (909-910)

Mr. Thorne: Prior to the change in the interstate fare the fare from Chicago to St. Louis was 25 cents higher than to East St. Louis?

Mr. McNamara: Well, to be exact, the rate was $5.80 and it is made 30 cents to Granite City, $5.50 local rate, 2 cents a mile, plus 30 cents. To East St. Louis would have been $5.62 plus 25 cents. (913)

We have a similar charge at other bridges throughout the United States; 25 cents at Keokuk, 20 cents at Quincy and 20 cents at Hannibal, and so forth.

2058 Mr. Thorne: That facility also includes the terminal service at St. Louis?

Mr. McNamara: Yes; but if we did not have the bridge there we would have the Terminal service at St. Louis. (914)

Section 11. *MacLeod Shows Carriers' Effort to Procure by Legislation an Advance from 2 to 2½ Cents per Passenger per Mile in the Maximum Fare Law of Illinois.*

Mr. MacLeod's evidence shows, among other things, that the Illinois carriers spent $16,000 in a publicity campaign in Illinois very much along the lines suggested by the Commission in the Five Per Cent. Case, 31 I. C. C., 351, and 32 I. C. C., 325; that a committee of

their executives conferred with the Governor of Illinois; that they petitioned the legislature for an amendment of the statute providing for 2½ cents instead of 2 cents as the maximum passenger fare; that 75,000 persons and firms signed that petition; that the committee visited 104 towns and cities in Illinois, and that by these towns and their interests 97 resolutions were passed and submitted to the legislature; that bills were introduced in both houses; that while the members of the committee were waiting to be heard before the proper Legislative Committees, those bills died in those committees, and the legislature adjourned.

Mr. E. E. MacLeod testified: I have been chairman of the Western Passenger Association, with headquarters in Chicago, Ill., since 1889. My experience in the railroad service since 1885 has had to do with passenger fares and traffic and passenger matters generally. MacLeod Exhibits 1 to 9 have been prepared under my direction and are correct.

2059 Mr. Humburg: Passing MacLeod Exhibit 1* (which is an excerpt from the opinion in the Five Per Cent. Case) tell what, if anything, the Illinois carriers did with respect to obtaining an amendment to or repeal of the Illinois intrastate maximum passenger fare law of 1907.

Mr. MacLeod: The railroads of Illinois appointed a committee, consisting of seven of the more important lines, of which I had the honor to act as secretary, Mr. Hatch of the Illinois Central acting as chairman of that committe-. We started a publicity campaign in Illinois; trying to get in touch with the public, and in doing so we, as shown by MacLeod Exhibit 2, *we* prepared a set of advertisements and they were distributed by the carriers among the public and about two hundred newspapers in the state. The different advertisements as they appeared are shown in this exhibit.

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* Said MacLeod exhibit reads as follows:

"Increases in passenger fares have recently been made in New England, following conferences between the state commissions, the carriers, and representatives of the public, and they appear to have been cheerfully acquiesced in by the traveling public. Extra charges for special accommodations have also been made.

"The need of additional revenues is greatest in Central Freight Association territory, and existing statutes in Ohio, Indiana, Illinois, and Michigan may be obstacles to the raising of passenger fares in those states. But we are confident that if these statutory fares are clearly shown to be unduly burdensome to the carriers, the people of those great states will cheerfully acquiesce, as the people of New England have done, in reasonable increases, and that the necessary legislative authority will be promptly given. The traveling public is giving expression to its demands for better service, better accommodations, and for the adoption by carriers of all the devices that make for safety. A public that demands such a service cannot reasonably object to the payment of a reasonable compensation therefor." (Five Per Cent. Case, 31 I. C. C., 407.)

Mr. Thorne: I object to the introduction of any of these advertisements. Suppose we desire to introduce a lot of advertisements and wanted to get expressions of President Wilson, Senator Cummings or Senator LaFollette, would we be permitted to introduce their opinions in evidence?

Mr. Humburg: The purpose of this is to show the diligence on the part of the Illinois carriers to obtain an amendment or repeal of the Maximum Passenger Fare Law of Illinois, because they are bound, as to intrastate transportation, by that maximum statute; and if unjust discrimination exists, it is not within the power of the carriers' own doing to undo that by simply raising the passenger fares of the State of Illinois.

2060 Examiner Gutheim: I think perhaps we may be able to settle it this way: as I recollect the answers in this case, they do not deny the allegations as to the difference between rates between St. Louis on the one hand and between East St. Louis on the other hand and the Illinois points, and the carriers set up that they are estopped by a law in the State of Illinois from raising the intrastate rates. Now I think it is proper for them to show what they have done to remove that estoppel, and for that purpose exhibits, such as these, will be received. They are not received as to the merit or lack of merit in the statements made therein. (924-6)

Mr. Humburg: Did the carriers confer with the Governor of the State and express to him their desire to have the law amended so as to provide for a maximum of 2½ cents per mile, and if so what occurred in that conference?

Mr. MacLeod: They did. A committee of executive officers appeared at Springfield before Governor Dunne, and you will see in MacLeod Exhibits 3 and 4 the talk made by Mr. Markham, President of the Illinois Central Railroad, who was Chairman of that committee. His remarks in detail are shown in MacLeod Exhibit 3, and the Governor's reply in MacLeod Exhibit 4. Said exhibits read as follows (926-7):

MacLeod Exhibit 3.

Copy of Remarks of Mr. C. H. Markham, Chairman of the Carriers' Committee, Before Governor Dunne, of Illinois, Concerning the Carriers' Desire for an Amendment of the Maximum Passenger Fare Law, and a Copy of the Governor's Reply.

February 3, 1915. H.

To the Honorable, The Governor of Illinois.

Sir:—In courtesy to you and to the high and honorable office you hold, as well as in the interest of correct procedure, we come on behalf of the railroads operating in this State to lay before you, and to invite your favorable consideration of, our purpose to ask the State of Illinois, through its proper officers, for an amendment to the existing passenger fare statute whereby the maximum rate of fare in Illinois may be made two and one-half cents a mile.

We shall not bore you with elaborate compilations of statistics or fine-spun argumentation. The figures to support each statement made here, however, are available in the official filed reports of the railroads and will be furnished as desired. We are concerned at this time to show the inspiration and inception of the move for an advance in passenger fares and the fundamental reasons for it.

The railroads have nothing to sell but transportation. Unlike persons or corporations in most other lines of business, they cannot fix the price of their merchandise. Their rates are subject
2061 always to limitations imposed by the Interstate Commerce Commission on interstate business, and by local authorities within state boundaries. For some years the railroads have been facing a condition of stationary or declining rates for their service, and of steadily increasing cost of operation, due to advances in wages, material and supplies, to regulatory legislation, to installation of safety devices, and to heavier and more expensive equipment necessitated by public demand for better service and accommodation. It is unnecessary to discuss this situation in detail. The whole country knows of it. Disaster has overtaken some roads on account of it; others have suffered heavily, and all have been affected.

An important factor in these results has been a 33⅓ per cent. reduction in maximum passenger fares made by the passage of the 2-cents-a-mile law in Illinois and in several other states.

Application to the Interstate Commerce Commission for acceptance of rate amendments to relieve the situation resulted in the most searching inquiry into the subject of railroad operation and revenues ever undertaken in this country. In this inquiry the generally unprofitable character of railroad passenger service was emphasized to a degree that impelled the Commission to give it special consideration, although the question of passenger fares was not specifically or officially before that body. The findings of the Commission in respect to passenger fares, together with comments by Mr. Louis D. Brandeis, its counsel, and by Commissioner Daniels, are attached hereto.

Therefore it is at the direct suggestion of the Interstate Commerce Commission that we are now presenting the facts in this situation to the people of Illinois and requesting action by their elected representatives with a view to securing the relief recognized and virtually recommended by the Commission.

When the two-cents-a-mile law went into effect in 1907, the railroads of Illinois accepted it and made a sincere attempt to live under it without impairment of passenger service. The law has not worked out as some of its advocates expected. The contention that reduction in fares would stimulate travel, and thereby make up the revenue lost, has not been borne out by experience.

From June 30, 1903, to June 30, 1907, being the four year period preceding the passage of the two-cents-a-mile law, the number of passengers carried one mile in Illinois increased 22.33 per cent.; while for the year ending June 30, 1913, compared with the year ending June 30, 1909, which is the latest four-year period for which

statistics have been published, the increase in the number of passengers carried one mile was only 17.43 per cent.

The passenger revenues in the year ended June 30, 1913, increased 62.47 per cent. over the year ended June 30, 1903. Total revenues in Illinois increased 81.66 per cent. for the year ended June 30, 1913, over the year ended June 30, 1903; while operating expenses and taxes increased 98.58 per cent.

The result of this was that, notwithstanding the large investment of railroads in new lines, improvements to existing lines and investments in additional and improved equipment, the net railroad revenue in Illinois increased only 42.25 per cent.

The average distance traveled per passenger in the State of Illinois for the year ended June 30, 1907, before the 2-cents-a-mile law went into effect, was 28.10 miles, and the average fare paid was 54 cents. The average distance traveled per passenger for the years ended June 30, 1913, under the 2-cents-a-mile law, was only 25.16 miles, and the average fare paid was only 44 cents.

The number of employes of railroads in Illinois in 1903 was 103,385 and in 1913 167,886, an increase of 62.39 per cent. To these Illinois employes the railroads paid $63,674,627 in 1903 and $122,158,824 in 1913, an increase of 91.85 per cent.

These figures are from the reports made by the Railroad and Warehouse Commission of the State of Illinois, the figures for the year ended June 30, 1913, being the latest official figures which are available.

2062 Railroads operating in Illinois, as well as other states where the maximum rate of fare is fixed at two cents a mile, are at a disadvantage in comparison with many states where passenger revenue opportunities are greater. And this, too, has a bearing on the contention that the reduction of fares in Illinois would stimulate travel and make up the loss. Density of population makes volume of railroad travel. The greater the volume the lower the cost of handling. This is a law of trade. Passenger fares, therefore, ought to be lowest in the more densely populated states. But they are not. In the eastern states of Pennsylvania, New York, Massachusetts, Rhode Island, Connecticut, New Jersey and Maryland, density of population is considerably greater than in Illinois, yet maximum fares are higher in all of those states than in Illinois, and not through public indifference to the question. Within a recent period, and since the beginning of the general inquiry undertaken by the Interstate Commerce Commission, this subject has had careful consideration in the New England States, where population is more dense and travel greater than in any other part of the country, and in consequence maximum legal rates have been restored to 2½ and 3 cents a mile.

In presenting this situation to the people of Illinois, the railroads operating in the State are acting in direct response to the suggestion of the Interstate Commerce Commission (which has already approved tariffs providing for increase of interstate rates to a 2½-cent basis), and in accordance with the Commission's expressed belief that the people of this State "will cheerfully acquiesce, as the people of New

England have done, in reasonable increases, and that the necessary legislative authority will be promptly given."

We propose to present our case to the people of the State frankly and without reservation. Representatives of the railroads are prepared to go before commercial and civic organizations of every kind, and before public meetings, to discuss every phase of the question that can be raised.

In due course a bill for an amendment to the existing passenger fare statute will be presented to the General Assembly for consideration and action. We look forward to making the equity and justice of our request so clear to the people of Illinois that the General Assembly will not hesitate to enact the proposed amendment, and that it will receive your favorable consideration.

Very respectfully,

C. H. MARKHAM,
President I. C. R. R. Co.,
Chairman of this Committee.
H. U. MUDGE,
President C., R. I. & P. R. R. Co.
W. J. JACKSON,
Receiver C. & E. I. R. R. Co.
W. G. BIERD,
President C. & A. R. R. Co.
E. P. RIPLEY,
President A., T. & S. F. Ry. Co.
H. R. KURRIE,
President C. I. & L. Railroad.
S. M. FELTON,
President C. G. W. R. R. Co.
HALE HOLDEN,
President C., B. & Q. R. R. Co.
A. M. SCHOYER,
V.-P. Pennsylvania Lines.
W. A. GARDNER,
President C. & N. W. Ry. Co.
A. J. EARLING,
President C., M. & St. P. Ry. Co.
E. B. PRYOR,
Receiver Wabash Railroad.

2063 Comments on Passenger Fare Situation by Interstate Commerce Commission by Mr. Commissioner Daniels, also Mr. Louis D. Brandeis, who was Counsel for the Interstate Commerce Commission in the Five Per Cent. Case.

The Interstate Commerce Commission, in the decision given July 29, 1914 (in the Five Per Cent. Case, 31 I. C. C., 351) opinion by Mr. Commissioner Harlan, commented on the passenger question as follows:

"The reduced earnings on passenger traffic (in Central Association territory) were caused largely by reductions which the carriers were compelled to make in passenger fares in Ohio, Indiana, Illinois and

in other states, under local legislative action. We shall refer later to this very important phase of the case, but it is proper to say at this point that the returns from about ten of the roads, representing only a portion of the mileage * * * show that during the period from 1906 to 1913, inclusive, there was an estimated loss of nearly $18,000,000 in revenues, due to state legislation under which those carriers were compelled to make substantial reductions in their local passenger fares, with accompanying reductions in their interstate passenger fares.

"Another cause which has depressed the ratio of revenue to investment in recent years, is the increasing proportion of investment in property, which, although used in transportation and acquired in response to a public demand for better service, is relatively unproductive under present practices. Among other things, investments in equipment of improved type, displacing other equipment of equal capacity, the elevation of tracks and the construction of expensive terminal facilities in the large cities, while adding to the value of the service rendered, have not yielded proportionate returns in revenue. The greater part of these expenditures has been for the immediate benefit of the passenger service. * * *

"In a general statement submitted to the New Haven stockholders on April 11, 1914, Chairman Howard Elliott declared that the passenger earnings on that railroad for the eight months ending February 28, 1914, were $21,866,482.47, or 50.6 per cent. of the gross earnings from transportation, but 'did not contribute anything directly to taxes and interest,' while the freight earnings of $21,347,909.47, which were 49.4 per cent. of the gross revenues, contributed $11,848,089.75 towards taxes and interest. In other words, the freight operating expenses consumed only 44.5 per cent. of the freight train revenue, while the expenses in connection with its passenger service consumed approximately 100 per cent. of the passenger train revenue.

"The relative results of the freight train and passenger train business on the New Haven are not exceptional. * * * Increases in passenger fares have recently been made in New England, following conferences between the state commissions, the carriers, and representatives of the public, and they appear to have been cheerfully acquiesced in by the traveling public. Extra charges for special accommodations have also been made.

"The need of additional revenues is greatest in Central Association territory, and existing statutes in Ohio, Indiana, Illinois and Michigan may be obstacles to the raising of passenger fares in those states. But we are confident that if these statutory fares are clearly shown to be unduly burdensome to the carriers, the people of those great states will cheerfully acquiesce, as the people of New England have done, in reasonable increases, and that the necessary legislative authority will be promptly given. The traveling public is giving expression to its demands for better service, better accommodations, and for the adoption by carriers of all the devices that make for
2064 safety. A public that demands such a service cannot reasonably object to the payment of a reasonable compensation therefor."

Commissioner DANIELS. In connection with the Interstate Commerce Commission decision quoted above, Commissioner Daniels said:

"It is becoming increasingly clear that passenger traffic does not bear its proper share of the joint costs incurred by the carriers for the transportation of freight and passengers. But it is even more clear that as a practical matter passenger fares cannot be speedily readjusted upon a higher basis. Although the record in this case clearly shows that the carriers generally do not find passenger traffic highly remunerative, the suggestion that they should add to their revenues by advancing their passenger rates is of little force in view of the fact that they are powerless to adopt it. In recent years state commissions and state legislatures have established maximum intrastate passenger rates. So long as the rates thus established are not so low as to be deemed confiscatory, in violation of the fourteenth amendment to the Federal Constitution, the carriers are bound to observe them. The activity of the states in this respect has been so general that the carriers no longer can fairly be expected to look upon their intrastate passenger traffic as a possible field for the substantial augmentation of their revenue. Not only has the Commission recognized the fact that state laws and the orders of state commissions have materially reduced the carriers' revenues, but it has deemed the limitation thus imposed upon the carriers a reason for allowing them to increase their freight rates.

"A living wage is as necessary for a railroad as for an individual. A carrier without a sufficient return to cover costs and obtain in addition a margin of profit large enough to attract new capital for extensions and improvements cannot permanently render service commensurate with the needs of the public."

Mr. LOUIS D. BRANDEIS. In his argument before the Commission, in connection with the above mentioned case, Mr. Louis D. Brandeis, counsel for the Commission, said:

"The cost of operation of passenger service is so great as to leave nothing for profit. This increased cost has come largely through increased wages, and with the introduction of steel cars you are carrying 50 per cent. more dead weight to every passenger than you carried before. All the other expenses are similar. The electric light, the ventilation, sanitation and all of these things which we have and ought to have, cost money. But there has been nothing to counterbalance that increase in the cost of operation which comes from the increased wages, and from governmental regulations in the aid of safety to humanity."

MACLEOD EXHIBIT 4—BEING THE GOVERNOR'S REPLY.

State of Illinois,
Executive Department,
Springfield.

February 3, 1915.

GENTLEMEN:

In answer to your communication of this date, presented in person I would respectfully state that I favor a full and fair hearing upon your application to increase passenger rates from two cents to two and one-half cents per mile, and I have no doubt the legislature will give you such hearing.

Whether the prayer of the petition should be granted is
2065 dependent upon many facts which can only be developed by a painstaking investigation, I do not believe there is any disposition on the part of the people of the State of Illinois to insist upon confiscatory rates or rates unfair to railroads.

The present two-cent rate, however, has been in force in this State, without any vigorous protest on the part of the railroads, for nearly eight years, and if the rate is to be increased you must be prepared to satisfy the representatives of the people that the present two-cent rate is clearly unfair and unremunerative. You should be given ample opportunity to be heard fairly and fully upon the question, and I shall keep myself fully advised of all the facts brought out in such hearing. Should the matter reach me for official consideration I shall endeavor to act fairly and justly to both the people and the railroads of this State, without favoring either unremunerative or extortionate charges.

Very truly yours,
(Signed) E. F. DUNNE.

Messrs. C. H. Markham, President I. C. R. R. Co., Chairman of this Committee; H. U. Mudge, Pres. C. R. I. & P. R. R. Co.; W. J. Jackson, Receiver C. & E. I. R. R. Co.; W. G. Bierd, President C. & A. R. R. Co.; E. P. Ripley, Pres. A. T. & S. F. R. R. Co.; H. W. Kurrie, Pres. C. I. & L. R. R.; S. M. Felton, Pres. C. G. W. R. R. Co.; Hale Holden, Pres. C. B. & Q. R. R. Co.; A. M. Schoyer, V.-P. Pennsylvania Lines; W. A. Gardner, Pres. C. & N. W. R. R. Co.; A. J. Earling, Pres. C. M. & St. P. R. R. Co.

Mr. Humburg: What did the same Illinois carriers do by way of petitioning the legislature of the State of Illinois for an amendment of the statute providing for a 2½-cent per mile maximum passenger fare law of the State of Illinois in lieu of the existing 2-cent law? (927-8)

Mr. MacLeod: MacLeod Exhibit 5 is the form of the petition sent by the carriers throughout the state, and to which they received in round numbers 75,000 signatures. (928)

Mr. Humburg: Did the commercial and shipping organizations of Illinois take action in that matter?

Mr. MacLeod: They did, sir. MacLeod Exhibit 6 gives samples of the different resolutions adopted. The committee of railroad men appeared in 104 towns, and in those 104 towns we received resolutions from 97, and I merely submit these as samples of the 97 resolutions received. This is merely to show that we have made our best endeavors to get the advance of fares in Illinois. (929-30)

MacLeod Exhibit 7 merely covers samples of editorials of five or six of the newspapers throughout the State of Illinois. I could show hundreds more. (932)

Mr. Thorne: We can show the opposite editorials, I presume?

2066 Examiner Gutheim: If you wish.

Mr. Humburg: No objection. There is never any desire on the part of these carriers to obstruct the rays of light on this subject or any other. (931)

Mr. Humburg: What was done by the legislature of Illinois in 1915 pursuant to this effort on the part of the Illinois carriers to obtain an amendment to the statute? (930)

Mr. MacLeod: In MacLeod Exhibit 8 is a true copy of House Bill No. 306, introduced in the Illinois legislature in 1915 and referred to Committee on Public Utilities and Transportation, and in MacLeod Exhibit 9, is a true copy of the Senate Bill No. 141 introduced in the Illinois legislature at the same time and referred to Committee on Railroads. The committee of railroad men, of which I was a member, spent a good deal of our time in Springfield waiting to be heard. The result was that no action was taken by the legislature, house or senate, and the bills both died in committee. (932-933)

NOTE. The two bills are identical. Omitting title and enacting clause said bill reads as follows:

Sec. 1. That it shall hereafter be unlawful for any corporation or company engaged in the carriage of passengers upon any railroad between points in this state, to charge in excess of two and one-half (2½) cents per mile for the carriage of adult passengers where any passenger has purchased a ticket entitling him to carriage, or in excess of one and one-quarter (1¼) cents per mile for the carriage of a passenger under twelve (12) years of age where such passenger has purchased a ticket entitling him to carriage: Provided, that the charge in no case shall be less than five cents (5c.), and in determining the charge fractions of less than one-half (½) mile shall be disregarded and all other fractions counted as one (1) mile. If any adult passenger shall have failed to purchase a ticket entitling him to carriage, a rate of three (3) cents per mile may be charged and collected; and if any passenger under twelve (12) years of age shall have failed to purchase a ticket entitling him to carriage a rate of one and one-half (1½) cents per mile may be charged and collected.

2067 MacLeod Exhibit 10 is a copy of the Illinois Maximum Passenger Fare Law of 1907 (935).

Section 12. Hatch States Position of Illinois Central and Shows Difference in Actual Cost of New Passenger Train Equipment Purchased in 1903 and Again in 1913.

The evidence of Mr. Hatch shows, among other things, that the Illinois Central is forced to discriminate against St. Louis on account of the low intrastate Illinois fares; that said discrimination is beyond the company's remedy under the existing maximum fare law of Illinois; that passenger travel is drawn away from St. Louis to localities in Illinois enjoying the lower fares; that the carriers are suffering from the burden placed upon interstate commerce by the intrastate fares, occasioned by the rebuying of tickets at the state line; that if the Commission shall find that the unjust discrimination exists, the situation should be remedied by an order admitting of an advance in the state fares; that the equipment for the Illinois Central's Daylight Special train, purchased new in 1913, shows an increase of 47 per cent. over the cost of the same kind and quantity of equipment purchased in 1903 for the same train as indicating the measure of the increase in the cost of equipment prior to and since the Illinois intrastate as well as the interstate fares between points in Illinois and St. Louis were reduced in 1907.

Mr. S. G. HATCH testified: I am Passenger Traffic Manager of the Illinois Central R. Co.; have been General Passenger Agent and Passenger Traffic Manager for the past 10 years; and prior thereto was Assistant General Passenger Agent, Division Passenger Agent, Traveling Passenger Agent, Ticket Agent, and Chief Clerk in the General Passenger Office (936).

2068 Mr. Humburg: State in your own way the attitude of your company, so that the Commission may be advised of your position and that of the company (936).

Mr. Hatch: It is our policy to avoid discrimination between commercial localities in the making of passenger fares, but we are forced to discriminate in this case on account of the low intrastate fare in Illinois. We recognize that it is discrimination beyond our remedy under the existing laws. We find that passengers are being influenced from St. Louis to other localities or commercial centers in Illinois, assuming that there is any advantage in the lower passenger fare, such as are enjoyed by Peoria, Decatur, Bloomington, Springfield and Chicago, and other similarly located points on our rails in Illinois. All of the statistical data that we have to offer on that subject have been presented by Mr. Lanigan.

We are suffering also on account of the burden placed upon our interstate fares by the intrastate fares in Illinois occasioned by the rebuying at the border points on the east side of the river. That is considerable and is shown fully in Mr. Lanigan's exhibits (937).

The situation is quite unsatisfactory. The measure of the interstate fare between St. Louis and points in Illinois, viz., 2½ cents,

is a fair measure, as it stands. If found to be unjustly discriminatory, it should be remedied by an advance of the state fares in Illinois.

Mr. Thorne: Do you know of any individual that did not make the trip to St. Louis because of these rates? The loss to which you referred is in the amount of money received rather than in the number of passengers that traveled, is it not?

Mr. Hatch: I am rather of the opinion that so far as the number of passengers carried is concerned that the Illinois Central is gaining by the present arrangement. We are a north and south line in Illinois and are crossed by all of the east and west lines between Chicago and Cairo. The southern portion of Illinois is more particularly the St. Louis territory. Our train service in southern Illinois is arranged to accommodate St. Louis traffic rather than Chicago. I should say that the east and west lines crossing us are suffering the loss that you are referring to, and the rate cannot have helped
2069 those passengers to Chicago where the distance is the same (939-40).

Mr. Humburg: You mean that the statistics introduced show the change in the number of passengers on the various roads greater in number traveling to or from East St. Louis than to or from St. Louis?

Mr. Hatch: Yes, sir.

Mr. Humburg: And notwithstanding that might be a temporary gain in number of passengers, by reason of the manner in which the Illinois Central operates, do you consider it a fair and just arrangement?

Mr. Hatch: No; we are of course suffering a loss that we might get (as a gain) on our interstate traffic under the full measure of our interstate fares.

Mr. Humburg: And the gain you had in mind was the gain on intrastate traffic and not gain on interstate traffic?

Mr. Hatch: Entirely intrastate, in the number of passengers we would carry at the lower intrastate fare, and who otherwise would be interstate business coming over into St. Louis (940-1).

Mr. Thorne: What proportion of your total revenue accrues from the sale of mileage books.

Mr. Hatch: My recollection is about 8 per cent. It is smaller on our northern lines than in the south. The Illinois Central sells 2-cent mileage books which are good over the entire system (942).

Mr. Bryan: Is the cost to the Illinois Central of its terminal service across the river any greater now than it was prior to December, 1914?

Mr. Hatch: Practically no change (943-4).

Mr. Humburg: Mr. Hatch inadvertenly omitted from his evidence a statement comparing the actual cost to the Illinois Central of its so-called Daylight Special train operating between Chicago and St. Louis, and for which equipment was purchased in 1903 at a total cost of $76,893, and again the same kind of equipment was purchased in 1913 at a cost of $113,366. I ask leave to submit a supplementary exhibit showing these data in detail (1597).

NOTE. No objection was made, and the carriers' counsel
2070 stated in answer to the Examiner's inquiry that those data would be furnished. We accordingly submit the following as Hatch Exhibit 1.

Cost and Weight of Present Steel Equipment in Service on Illinois Central Railroad Trains Nos. 19 and 20 Between Chicago and St. Louis, as Compared with Wood Equipment Previously in Service on Same Trains.

Equipment of one train	Cost per car. In service in 1903.	Cost per car. In service since 1913.	Weight per car. In service in 1903.	Weight per car. In service since 1913.
	Wood cars.	Steel cars.	Wood cars.	Steel cars.
Engine	$16,638	$23,134	*188,000	†245,000
Chair Car	9,393	11,580	93,600	131,600
Parlor Car	14,342	17,972	112,000	132,000
Diner	14,550	20,227	102,000	148,900
Coach	9,194	12,369	90,000	133,000
Baggage	5,048	11,184	88,000	120,900
Mail	7,728	16,900	107,000	122,000
Total Cost of One Train...	$76,893	$113,366	780,600	1,033,400

Difference in cost one train.		Difference in weight one train.	
1913	$113,366	1913	1,033,400
1903	76,893	1903	780,600
	$36,473		252,800

* Atlantic Type.
† Pacific Type.

Section 13. Charlton's Testimony, Among Other Things, Shows the Gradual Decrease in Fares and Steady Increase in Convenience and Safety for Passengers on C. & A. R. R.

His evidence shows, among other things, that during his service with the C. & A. R. Co. the fares between Chicago and St. Louis have gradually decreased from 5 cents to 2 cents per passenger per mile; that during the same time there has been a marked increase in the convenience and safety for passenger travel and a gradual increase in the expense of conducting passenger service; that he considers the persent 2½ cent fare too low as applied either to interstate or intrastate traffic; that he concurs in the evidence of Mr.
2071 Hatch concerning the removal of discrimination by an advance in the state fares, if said discrimination shall be found to exist and to be unjust; that there is no material difference in the convenience and safety on C. & A. trains for travel interstate between St. Louis and points in Illinois and intrastate between Chicago and points in Illinois; that C. & A.'s equipment and train serv-

ice for local and through traffic is about the same; that there is no material difference in the equipment between trains going into and out of Chicago and those going into and out of St. Louis, and that its through trains serve both interstate and intrastate passengers.

(*a*) Charlton's Direct Evidence.

Mr. GEORGE J. CHARLTON testified: I am passenger traffic manager of the Chicago & Alton R. Co., with headquarters in Chicago; have been connected with the passenger department of that road for a little over 40 years; have occupied all positions in clerical, official and executive work of the passenger department; have been statistician, auditor of passenger accounts, chief rate clerk, ticket clerk, messenger boy, office boy, soliciting agent, station ticket agent and have acted as a conductor of a passenger train.

Mr. Humburg: During your long experience, what changes have taken place in the measure of passenger fares between Chicago and St. Louis and other points?

Mr. Charlton: I have seen the rate between St. Louis and Chicago, when there was no bridge at St. Louis, and after there was a bridge connection, reduced single-trip fares from $11.25 to $5.80. As to time when the changes occurred, that varied from year to year. I participated in and figured these rates from 5 cents per mile, 4 cents, 3 cents, down to 2 cents per mile. In my 40 years' experience while the rates have gradually decreased, the expense has gradually increased, in the matter of soliciting and handling the traffic, selling the tickets, in connection with station and city office work, and in the improvement of equipment, increase in train service, speed of trains, and in station service particularly. Union
2072 Stations, expensive and convenient city officers are made necessary, particularly in the larger cities, with a view to getting close to that population of the city which deals direct with the railroad company in the purchase of tickets. The facilities of every kind and nature in the soliciting, controlling, and handling of the traffic at the city office and train, have gradually and constantly increased while the rates in every instance have decreased.

Mr. Humburg: What has been your observation during this long period as to the increase or decrease in conveniences and safety furnished to the traveling public?

Mr. Charlton: There has been almost year by year a more marked increase of facilities and conveniences, in character of equipment, facilities in the way of lighting, heating, upholstering, conveniences as to train service. The Chicago & Alton is the pioneer dining car line, sleeping car line and chair car line, and I have personally seen the marked effect of the tremendous increase in convenience in the way of dining car service. We were the first line to furnish a buffet service, the first to provide a dining car service, the first to provide a sleeping car, and we have noticed, having started in that business, the tremendous increase in conveniences from that character of equipment (946-8).

Mr. Charlton testified further concerning the attitude of his com-

pany: We admit that there is a discrimination against St. Louis as compared with Chicago in the matter of through fares, fares from Illinois stations to St. Louis and vice versa. The discrimination is not of our own making, as has been shown here. It is the result of a condition which obtains by reason of the 2-cent rate made for us and against our protest in the State of Illinois, and the 2½ cent rate which we are permitted to apply as a reasonable rate in the sale of interline (interstate) tickets. We do not consider 2½ cents a reasonable rate in view of the facilities we are furnishing, but it is a more reasonable rate than a 2-cent rate. We believe 2½ cents, either locally in the State of Illinois or on interstate traffic, is altogether too low for the character of service the Chicago & Alton is furnishing. Others particularly the Illinois Central, are furnishing in some of their trains what may be supposed to be a very much better service in the way of steel cars, and that (my state-
2073 ment) would apply in their case with a good deal more force than in ours (948-9).

I concur substantially in the evidence submitted by Mr. Hatch concerning the removal of this unjust discrimination if it should be found by the Commission to exist (950).

Mr. Bryan: Is there any reason for the discrimination in the rates between St. Louis and Illinois points and the rates between Chicago and Illinois points?

Mr. Charlton: None other than I have stated—the difference between the rate of 2 cents within Illinois and the rate of 2½ cents which applies on interstate traffic, St. Louis being in the very unfortunate position of a border city and it probably gets the worst of it.

Mr. Bryan: In other words, that is due merely to that law?

Mr. Charlton: Entirely to that law (950-1).

The relative cost of operating here in St. Louis as against Chicago is not materially different. The same units enter into the cost of operating each terminal with the exception of the bridge charge here, which does not apply in Chicago.

Mr. Humburg: At Chicago you have, on the other hand, certain other facilities different from the bridge, such as elevated structures and others?

Mr. Charlton: Yes; and we are going to have a Union station there costing fifty or sixty million dollars that will make us sit up in a year or two (952).

Mr. Humburg: Is there any difference in the convenience or the safety of your trains for passenger travel interstate from St. Louis to points in Illinios versus intrastate from Chicago to points in Illinois?

Mr. Charlton: No, sir; as a general rule, all our equipment and train service is about the same whether applied to local or through trains (960-1).

There is no difference in equipment between trains going into and out of Chicago and those going into and out of St. Louis; the through trains serve both interstate as well as intrastate passengers (961).

974 (*b*) Charlton's Cross-examination.

Mr. CHARLTON testified further on cross-examination: There has
en a very material improvement in the character of the Chicago
Alton's train service; it is very much better now than it was 10
ars ago; it is more costly, and there has been an increase in the
lume of passenger travel.

Perhaps the Chicago & Alton Railroad from Chicago to St. Louis
ffers to a greater extent than any other railroad within the state
om traction line and automobile competition. We are absolutely
ralleled between Chicago and Joliet right along the line of our own
ack for 37 miles and between Dwight and Pontiac for a distance
17 miles. We are paralleled between Lincoln and Springfield,
r approximately 30 miles; between Springfield and Carlinville, ap-
oximately 30 miles.

We are paralleled and in competition for every bit of local travel
tween Springfield and St. Louis, and between St. Louis and Jer-
ville. The only places where we have no traction line competition
for a distance of about 20 miles between Lincoln and Bloomington,
distance of 37 miles between Bloomington and Pontiac, and 36
iles between Dwight and Joliet.

The right of way has been purchased and is graded and fixed as
culverts and bridges for a very large portion of the territory in
hich we are not paralleled.

In the last 15 years I have seen the passenger revenue of the Alton
oad decrease in connection with its local travel within 25 and 50-
ile zones from 60 to 40 per cent. of the whole. In other words, this
ad earns in Illinois 60 per cent. on its long distance travel and its
rough travel, where it formerly earned only 40 per cent. and its
cal travel within the 25 and 50-mile zones formerly earned 60
r cent. The situation has been reversed and has been brought
out largely by electric lines and automobiles. If you ride the day
ins of the Alton Road, as I do, and as you probably have done,
r. Mullen, you will notice the extent to which we are paralleled
electric lines and automobile service. Even our own men are
ing automobiles in soliciting freight and passenger business be-
use they can use them to better advantage (953-5).

975 We make the same rates as the interurban lines, but it does not help us on short travel. I think in a little while the automobiles will drive the electric lines out of business, and en we will have only one competitor in Missouri. There is a jitney rvice between various points that has been in effect for a year. It s reduced our rates locally in the territory 55 per cent. on 25-mile ne travel. (955)

Mr. CHARLTON testified further on redirect examination: The eeting of the interurban fares cannot properly be considered to be e making of a voluntary rate on the part of the C. & A. R. Co. On stances of 75 miles or more, where we believe the steam roads have me advantage on account of the quicker speed of the train, we eet the interurban rates, and if we did not meet them we believe

we would lose the traffic, and that is the only reason why we meet them. (960)

Mr. Mullen: You have a train that leaves Springfield about 4:10 in the afternoon bound for Chicago. Is that of the same character as the Alton Limited except for the paint?

Mr. Charlton: Except for the paint. It has the same cars, built at the same time, and cost the same money. (962-3)

Mr. Mullen: Is that the cheapest train you have on your line of road, the 4:10 to Chicago, in point of equipment?

Mr. Charlton: In point of equipment all our trains are practically the same kind of service as to the passenger coaches; some of them are coaches with coach backs and others are reclining chairs, but they are all the same character of car. We have not, what you would call, cheap cars. (963)

Mr. Mullen: What is the character of the train leaving Roodhouse about 7:00 o'clock in the morning?

Mr. Charlton: About the same as others, composed of 200-class coaches that cost us in the neighborhood of $8,000 apiece when built and they have all been built within the last ten years. (964)

Mr. Bryan: Traveling on the Alton Limited between Chicago and 150 miles out of Chicago in Illinois is cheaper than traveling
2076 on the Alton Limited between St. Louis and 150 miles out of St. Louis into Illinois, is it not?

Mr. Charlton: For the reason that one is a state trip and the other is an interstate trip, and it is cheaper by something over a dollar.

Mr. Bryan: And the service is the same?

Mr. Charlton: Exactly the same; the same train. (964-5)

Section 14. *Richardson's Evidence Shows How Interstate Fares Are Being Circumvented on the C. & E. I. R. R.*

He concurs in the evidence of Messrs. Hatch and Charlton about the difficulties of handling passengers between Chicago and St. Louis since the difference in fares, and further, that while his company has greatly improved its service, the intrastate passenger traffic on his line, especially on branch lines, is considered not at all remunerative; that the present methods employed in buying and rebuying tickets at state lines, with the view of defeating the interstate fares, is a source of constant irritation to the passengers, and his testimony suggests the remedying of the situation by an order admitting of the advance in the intrastate rates; that the reason why the interstate fares to or from St. Louis are higher than the intrastate fares between points in Illinois is the fact that the maximum fare law of Illinois prevents the carriers of their own motion to advance the intrastate rates to the level of the interstate rates, and that the service for intrastate Illinois travel and for interstate travel between St. Louis and points in Illinois is substantially the same.

Mr. W. H. RICHARDSON testified: I am general passenger agent of the Chicago & Eastern Illinois R. Co.; have been connected with the passenger department about 30 years. We operate between Chicago and St. Louis and get into St. Louis via Granite City and the Merchants' Bridge. (966) We operate between Chicago
2077 and St. Louis three passenger trains each way a day, and the fast mail train which does not carry passengers. (969)

There is confusion at Granite City about passengers leaving trains and using the street car or waiting for another train, re-checking baggage, and things of that sort. I concur in the testimony of Messrs. Hatch and Charlton with respect to the difficulties of handling passengers between Chicago and St. Louis since the difference in rates (966-7).

The C. & E. I. has improved its service between Chicago and St. Louis in many particulars recently. Considerable solid steel equipment has been added to the train service, heavier locomotives, additional block signals, and recently we built some 50 or 60 miles of additional second track between Findlay and Valley Grove. That additional track was built primarily for the handling of passenger service. (967) In recent years we purchased steel passenger equipment at an expense of about $250,000. (969)

I can only reiterate what others have said, that this discrimination does exist as far as St. Louis is concerned, but it is not of our creation. (967)

If the buying and rebuying at Granite City continues, we are confronted with a request from the agent for additional help. That is true at Danville also. Danville is right close to the Indiana state line and we operate several trains passing through there in daylight, and that being a point at which locomotives and train crews are changed, the buying and rebuying of tickets is taken advantage of to a greater extent than at any other point on our railroad, so much so that we feel we will be obliged very shortly to increase our force there if we want to take care of the business. It is a constant irritation to the passengers. (968)

On our branch lines the passenger service is not at all remunerative. It does not even equal the expense of operation, but our people have taken the position we are in duty bound to provide the communities with some service and we do it at the expense of the passenger department. (969)

I have seen figures compiled for our president in recent
2078 years which showed that there is no return on the investment for the passenger service. (969)

I think the situation can be remedied both at Danville and Granite City by an advance of the intrastate rate. I do not think that 2½ cents per passenger per mile is unreasonably high. My statement is based altogether on the results of operation under the 2-cent basis. Merely my experience in connection with the passenger department of the C. & E. I. led me to conclude that the passenger business on the C. & E. I. is not paying. (970-971)

Mr. Bryan: What is the reason for your fares from St. Louis to a

given point in Illinois being higher than fares from Chicago to a point the same distance from Chicago?

Mr. Richardson: It is due primarily to the 2-cent fare prevailing in Illinois. (971)

Mr. Bryan: The same service in each case?

Mr. Richardson: Identically. (972) We use the Union station in St. Louis and the rate is supposed to pay for that service. There has been no increase in the cost to the C. & E. I. of coming into St. Louis. (973)

Section 15. *Westerman's General Statement Concerning Passenger Fares in Illinois on Southern Railway. Other Passenger Representatives Present.*

It shows, among other things, that in none of the nine other States in which the Southern Railway operates are its passenger fares so low as they are in Illinois and Indiana; that the Southern Railway is constantly improving its service and rendering it more efficient by the expenditure of large sums of money; that on the short hauls automobile competition is giving the carriers great concern and that in his judgment the 2-cent Illinois passenger fare is unduly low and creates discrimination against St. Louis and other points where it is possible to buy tickets to the state line and rebuy tickets to destination in Illinois at 2 cents per mile.

2079 Mr. F. N. WESTERMAN testified: I am assistant general passenger agent of the Southern Railway at St. Louis; entered the railway service in 1891; spent six years in the transportation and accounting departments, and have been in the passenger traffic service since 1897 and with the Southern Railway since 1899.

Mr. Humburg: State whatever information or data you desire to submit for the consideration of the Commission.

Mr. Westerman: I desire to make a general statement for the Southern Railway about the conditions under which we are laboring on account of the 2-cent fare:

The Southern Railway Company has a total mileage of 7,022 miles, of which 163 miles is in Illinois and 240 miles in Indiana. It operates in the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Kentucky and Mississippi, in addition to Illinois and Indiana, and in all of these states, with the exception of the last two, there is not one in which the passenger fare is not stated on the basis of 2½ cents per mile, or higher, and no one connected with the company considers 2½ cents per mile highly remunerative. If comparisons and views of the most experienced men, qualified to express an opinion in connection with passenger service, is worth anything, a rate of 2 cents per mile is unwarrantably low. * * * We are constantly improving our service by the expenditure of money and endeavoring to make it more efficient, and we feel we should have a better return from our passenger traffic in Illinois. The Southern Railway has 163 miles

of line in Illinois, and the capital expended (here) by this Company from July 1, 1908, to the present time is $508,257.40, for permanent improvements in connection with passenger stations, additional side tracks, bridges, signal and interlockers, culverts, etc. This is of benefit to the people of Illinois, as it makes our service more efficient and satisfactory. (982-3)

During the period mentioned July 1, 1908, up to the present time, we have been forced into a comparatively new kind of competition which has grown each year. I refer to automobile competition. There are 1,776 machines owned by parties located immediately on the Southern Railway in Illinois; there are 2,465 machines
2080 owned by parties located at points five miles on either side of Southern Railway in Illinois—total number of machines, 4,241 or 26 machines to every mile of line owned by the Southern Railway in Illinois. In addition to this, there were 14,047 automobile licenses issued in the City of St. Louis, up to October 8, 1915, which should also be considered. We have found that traveling men, especially those traveling for jobbing grocery houses, in many cases, use automobiles where heretofore they have used our trains. In explanation as to why we feel that this competition is permanent, I will say that until the advent of the automobile there has been nothing to compete with railway service, considering that passenger trains are operated at speed from 35 to 60 miles per hour. These machines can equal the speed of a railway train, and, furthermore, their route is not confined to one line or road, but can be extended to all parts of the territory. Therefore, this automobile problem is giving the passenger traffic officials grave concern, especially when they consider what developments the future may bring. (983-4)

From experience extending over a number of years, I can look at this question, from both a technical and an administrative standpoint, and I entertain no doubt whatever that the 2-cent passenger fare in Illinois is unduly low and creates discrimination against St. Louis and other points where it is possible to buy tickets to the state line and rebuy to destinations in Illinois. (984)

Westerman Exhibit 1 shows the effect on St. Louis and East St. Louis, in so far as the Southern Railway is concerned (with respect to the buying and rebuying tickets to and from, the state line). (985) Said exhibit reads as follows:

2081

Statement Showing the Number of Straight One-way Tickets and Revenue Therefrom for all Stations on Southern Railway in Illinois om and to St. Louis and East St. Louis for Twelve Months Ended August 31st, 1915, as Compared to Twelve Months Ended August 31st, 1913.

	Number of tickets.	Revenue.
From St. Louis to points in Illinois:		
12 months ended August 31, 1915	11,144—324/2	$22,297.53
12 months ended August 31, 1913	18,733—349/2	31,935.59
Increase	.....	.....
Decrease	7,614	9,638.06
Per cent. of decrease	39.90	30.18
To St. Louis from points in Illinois:		
12 months ended August 31, 1915	6,634—301/2	$13,021.95
12 months ended August 31, 1913	16,398—584/2	28,790.82
Increase	.....	.....
Decrease	10,047	15,768.87
Per Cent. of decrease	59.16	54.77
From East St. Louis to points in Illinois:		
12 months ended August 31, 1915	12,899—371/2	$18,019.12
12 months ended August 31, 1913	11,393—277/2	15,468.83
Increase	1,600	2,550.29
Decrease	.....	.....
Per Cent. of increase	13.71	16.49
To East St. Louis from points in Illinois:		
12 months ended August 31, 1915	13,898—374/2	$20,223.37
12 months ended August 31, 1913	10,767—314/2	15,068.75
Increase	3,191	5,154.62
Decrease	.....	.....
Per cent. of increase	28.80	34.21

Mr. Humburg: Other passenger representatives here are Mr. Charles Rudolph, general passenger agent of the Mobile & Ohio R. R. Co.; Mr. D. M. Bowman, general passenger agent for the Cleveland, Cincinnati, Chicago & St. Louis Ry. Co., and Mr. C. J. Lieber, assistant general passenger agent of the Louisville & Nashville R. Co. Their testimony, if called as witnesses, would be substantially in accord with that given by Mr. Hatch and others. If gentlemen on the other side desire them to testify we are ready to proceed, but the evidence would be largely cumulative.

Examiner Gutheim: There appears to be no desire to hear them. (1014-5)

Section 16. Maxwell's Evidence on Passenger Fares.

NOTE. See Section 29 (*b*) below.

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2082 *Section 29. Maxwell's Evidence Concerning Freight Traffic, Also Passenger Traffic in b Below.*

(*a*) Intrastate Advances in Missouri, and in C. F. A. Territory Interstate and Intrastate. From St. Louis into Missouri a Zone Exists Somewhat Similar to the One from St. Louis into Illinois. Elevated Tracks Must Be Used in Chicago for the Delivery of Freight. Parity Between Rates from St. Louis and from Chicago to Points in Illinois.

Mr. W. C. MAXWELL testified: I am General Traffic Manager of the Wabash Railroad Company (since promoted to Vice President); have been 10 years with the Wabash, 24 years with the Burlington; have had experience in all of the local freight service from messenger boy into general office work, Assistant General Freight Agent and Division Freight Agent for the C. B. & Q. R. R. Co., and then Assistant Traffic Manager and General Traffic Manager for the Wabash. (Note: He is now its Vice President in charge of Traffic.) As General Traffic Manager of the Wabash I have direct jurisdiction over freight traffic and passenger traffic.

I was connected with the presentation of the evidence in the Five Per Cent. Case, 31 I. C. C., 32 I. C. C. (543)

Note: Mr. Maxwell's evidence concerning financial date of Illinois carriers is found in Part IV below.

Mr. Humburg: Will you advise the Commission of the
2083 present situation concerning intrastate-Missouri rates as to advances or reductions in the recent past?

Mr. Maxwell: In a fit of rage, and probably the carriers deserved the rage, several years ago the legislature passed a 2-cent fare law and they reduced the live stock rates to a ridiculous figure, a 44 per cent. reduction, for illustration, in the rates on horses from Kansas City, Mo., to St. Louis. They reduced the grain rates almost in proportion. Those rates were held by a temporary injunction and finally the matter went to the Supreme Court. We got a decision against the carriers and we put the rates into effect July 1, 1913, as I recollect it.

The Interstate Commerce Commission recently passed in the Southwest Millers' case on the complaint about discrimination as to grain rates and it is said that the rates, as we interpret it, for the state and interstate hauls must be made the same. (558-9)

There were two or three conferences with the Missouri Commission. They granted us a revision in the grain rate. Where that rate was 2½ cents for 100 miles they gave us 8 cents. That was put into effect a few months ago, and we made the rates the same to East St. Louis and St. Louis beyond points, say, 100 miles from St. Louis.

We just received the decision today, increasing the passenger ra for one-way tickets to 2½ cents and for round-trip tickets 2¼ cen They also give an order for a 500-mile book to be sold for 2 cents one railroad and a thousand-mile book interchangeable with the ra roads at 2 cents. They have increased the rates on live stock, pa ticularly the short hauls, 25 per cent., I should say, and on t longer hauls not very much. It is kind of a revision all the w through, and there are about ten other commodities covered. T carriers only brought up in that case the commodity rates and t passenger rates. The class rates were not in question. The proce ing embraced largely the rates fixed by statute about six or sev years ago. The passenger rates, grain rates and live stock rates Missouri are all statutory rates. (559-61)

Mr. Humburg: To what extent does the so-called Central Freig Association scale interstate enter into the intrastate India
2084 readjustment, and what further efforts are made by the ca riers concerning the Central Freight Association scale?

Mr. Maxwell: The Interstate Commerce Commission said that should have a revision of the rates in the Central Freight Associatio territory; that the five per cent. (advance) would not cure t trouble; and that there were discriminations in those rates. We ha been working a little over a year to put in a new scale to apply in t territory generally from Buffalo and Pittsburg to the Mississip River, including Michigan, Ohio and Indiana, and I think tho rates will be published certainly within the next 90 days.

For a great many years many people have been getting servic from the railroads on certain classes of freight, particularly hig class freight, which have paid not one penny towards the upkeep the railroad. To illustrate, for 30 miles on first class rate of 7½ cents per 100 pounds, people enjoying these rates have paid nothin toward the support of the transportation companies. (604-6)

Our 5 per cent. tariffs are still on file in Indiana. We have bee voluntarily suspending them from time to time for the reason tha there is a condition of great discrimination in that state as betwee localities. The rate in one direction for 30 miles might be 7½ cent first class and in another direction 18 cents, and we hope to presen them a schedule that will give everybody an equal opportunity.

Mr. Humburg: And the revision so proposed in connection wit the intrastate Indiana rates will look to an advance of those rates?

Mr. Maxwell: That is, throughout Indiana, Ohio, Michigan and on interstate traffic between Pittsburgh, Buffalo and the Mississipp River and all intermediate territory. (553-4)

Mr. Humburg: You said something about a 100-mile zone wes of East St. Louis, the rates being the same beyond that line from St. Louis as from East St. Louis going west?

Mr. Maxwell: Yes, it has been the general practice. The same plan is followed in going into Illinois. (561) With the
2085 exception of stock and grain and anything covered by those low statute rates, the rates from East St. Louis to points in Missouri beyond the 100 miles are the same as from St. Louis.

Mr. Bryan: Has not that been corrected recently?

Mr. Maxwell: It has been on this adjustment on grain just within a month ago with the consent of the Interstate Commerce Commission and the Missouri Utilities Commission. (601-2)

Mr. Bryan: But there is no real change in the relation except that the Interstate Commerce Commission permitted the increase of 5 per cent. and the State Commission did not?

Mr. Maxwell: Except that the owners have not been getting anything out of their property, and where any reasonable rate is granted they have got to take advantage of it absolutely; and in a matter of fairness and justice they should be the same. The carriers are very anxious to carry out the arrangement they made with this Terminal Commission. (566)

Mr. Bryan: There was always a certain parity between the Chicago and St. Louis rates into Illinois, was there not, a certain relation?

Mr. Maxwell: Yes; for instance, a man could move from Decatur on our line, 113 miles down here, for 2 cents (per mile); he could move it for the same rate to Chicago. Now, he has got to pay more from all these places to St. Louis, or stay away.

Mr. Bryan: It is the same with respect to freight, is it not?

Mr. Maxwell: There were certain equalizations about freight rates. We aimed to give them the same relative rate for relative distance. That is what we aimed to do. (567-8)

There is no greater cost for the terminal service in St. Louis now than there was before the advance in the interstate rate. We pay the Terminal Railroad no more. (571)

Mr. Barlow: Why were the rates from St. Louis to points in Illinois for distances less than 100 miles made a certain amount in excess of the rates from East St. Louis? (588)

2086 Mr. Maxwell: Because the carriers could hardly afford to absorb all of this expense of crossing the river mainly—I contend the terminal cuts no figure one way or the other—out of the earnings within the 100-mile zone.

Mr. Barlow: Was it done in recognition of the dissimilarity of circumstances and conditions surrounding the movement of traffic from St. Louis and East St. Louis to points within 100 miles?

Mr. Maxwell: That difference was the bridge toll. We make the same distinction from East St. Louis going west into Missouri. (589)

The Chicago & Western Indiana, over whose tracks the Wabash operates, runs into Chicago over elevated tracks. The distance over the terminals of the Wabash in Chicago is from 7 to 8 miles. It has gotten beyond the end of the Western Indiana now and we are doing a lot of elevating on our own account. It seems to be way out in the woods, but we are spending something like $400,000 in the last two years on elevation beyond the end of the Western Indiana on the Wabash proper. We have an extensive elevated yard at 47th street. (603-4)

We have gone right down to Clark street (in Chicago) within about four blocks of the post office, with one of our freight stations, an outbound station that cost a vast amount of money. We have team tracks at 12th street. The interest on the ground alone for

setting cars down there is about $5 a day for the ground occupied by each car. (606-7)

We have no places in Chicago where freight can be delivered without requiring the use of elevated tracks. Everybody wants the freight down at the choice part. (608)

(*b*) Maxwell's Resume and Suggested Remedy as Applied to Both Freight Rates and Passenger Fares.

Mr. Humburg: What observations have you to submit concerning the reasonableness per se of the recently advanced interstate freight rates (and passenger fares) between St. Louis and points in Illinois?

Mr. Maxwell: Well, as a general observation, the railroads
2087 operating south from Chicago all through the central part of the state and from there on down to the end of the state practically, are in a general condition of bankruptcy. There might be a variety of causes for that. One is that the coal rates are very low, which is a very large part of their traffic; another that their passenger rates have been very badly affected by a reduction of 33⅓ per cent. in the base rate, and I think the general scale of rates is a little lower than it should be. But, at any rate, we are face to face with that condition with the bulk of mileage in the State of Illinois, and something has got to be done about it to help cure that condition.

In the Five Per Cent. Case there was in Washington a very full discussion of the passenger rate situation. This particular situation right here in St. Louis was brought out, and there are several pages of testimony showing that the rate could be made $7.50 from St. Louis to Chicago against $5.70 from Granite City, and that while the Interstate Commerce Commission had granted this increase in passenger rates to 2½ cents after a full hearing their action would be largely nullified and there would be rank discriminations, and I believe there are today, by the state rates, and we further indicated that we felt about half of the travel between St. Louis and Chicago would go over to St. Louis or Granite City to board these trains and that we would only get the benefit of the rates granted by the Interstate Commerce Commission on about half of the business where they attempted to give us relief.

Of course, these freight rates about which this particular complaint is lodged were also handled in that same way. It was fully understood that we ought to have the co-operation of the Illinois Commission before we could get the benefit of the rates they (Interstate Commerce Commission) felt the carriers were entitled to. (550-2)

My answer may be extended to the passenger fares as well as to the freight rates.

In the Five Per Cent. Case the proposition of the carriers was to advance by 5 per cent. all of their freight rates in Official Classification territory—both interstate and intrastate in all of the states affected. (552)

2088 Mr. Humburg: If unjust discrimination does exist how do you, based upon your experience, consider that that situation might or should be remedied?

Mr. Maxwell: I think it should be remedied by an advance in the Illinois rates. I think that the rates now from St. Louis to Illinois are not too high. I think that is pretty clearly proven. There is hardly a railroad operating into East St. Louis today, not one, that is prosperous; not one, unless you call it the Illinois Central, which has a great deal of outside mileage. Take them all and analyze them. Think of taking something more from them. There is not anybody wants to invest any money in a business that is paying what that is—paying nothing. (561-2)

The freight rates between St. Louis and points in Illinois are certainly fair rates; they are reasonable rates; they are none too high; not one penny on any of them. There has not been any money in this business, this passenger business. It has just been a drag, and when you reduce the selling price of an article that is going up all the time in the cost of production, as the passenger traffic is, you cannot take one-third off the selling price of any piece of goods and make the thing work out. You can't do it. There is not any business man can do it in his own business. (562)

Mr. Humburg: Is it true generally that even if the intrastate-Illinois passenger fares were advanced to the level of the interstate fares between the points in Illinois and St. Louis to remedy this situation the advanced fares would not be as high as they were in 1906?

Mr. Maxwell: Yes, sir; the base of the selling price then was 3 cents; now they are trying to fix it at 2½ cents. It has been fixed by the Interstate Commerce Commission on interstate business regardless of these state combinations.

Mr. Humburg: So that if this situation needs remedying and if it were so remedied the result would be that interstate from St. Louis to points in Illinois and to points in Indiana, and in the reverse direction, and also from St. Louis to points in Missouri and from points in Missouri to St. Louis, throughout that territory all of the fares, state and interstate, would be 2½ cents maximum?

2089 Mr. Maxwell: Yes. It has absolutely go to be leveled. The present method of discrimination—and it is particularly strong against Chicago from Michigan and from Indiana and from other states right on her border—she suffers more I think than any of the cities—it is true of St. Louis. They are rankly discriminated against today and there must be some leveling up of that thing. It cannot go on. You cannot continue to place the burden on the interstate business. It has got to be so adjusted that it will apply to all of them and will be level. (563-4) Chicago is suffering from intrastate rates in Indiana like St. Louis is suffering from intrastate rates in Illinois.

Mr. Bryan: And St. Louis is suffering the same kind of discrimination with respect to Chicago on Illinois business?

Mr. Maxwell: Absolutely, absolutely. They are up against it. They haven't a fair chance to bring the people down here to trade. They have got to stand up and fight for their rights in this matter, as I look at it. (564-5)

Mr. Thorne: You take serious umbrage at this reduction of 33⅓ per cent. in the state passenger rate, do you not?

Mr. Maxwell: Yes. I think a crime was committed when that was done all around, an injustice. I think some of the burden of it must fall on the freight shippers. We must make a living some way. (592)

The Wabash passenger trains serving St. Louis likewise serve the intrastate-Illinois passengers. The grade of service is the same on intrastate as on interstate. (603)

2090 *Section 36. Keokuk, Concerning Both Passenger and Freight Traffic.*

The Keokuk Industrial Association intervened by Mr. Clifford Thorne. Its attitude is stated by him in Section 4A above, to the effect that if relief is granted to St. Louis, the same relief be granted to Keokuk. No evidence was offered on behalf of Keokuk against the reasonableness per se of the advanced interstate freight rates or passenger fares.

Mr. J. D. McNAMARA, General Passenger Agent of the Wabash R. Co., testified: The Wabash reaches both Quincy and Keokuk, and it operates passenger trains to both of those points (901). We have had a complaint from Keokuk. They complain they are losing their trade because people can go from that (Illinois) territory to Quincy at two cents, whereas they have to pay 2½ cents to Keokuk. They are asking us to level the thing up. As I understand Keokuk, they would like to have the same basis of rate as Quincy, either that we shall reduce the rate to Keokuk to 2 cents a mile or bring Quincy up to 2½ cents.

Mr. Brown: And they do not seem to be particular how you do it?

Mr. McNamara: No. I understand they want to get on a parity. (918-19)

Mr. Thorne: The authorized representative of the Keokuk Industrial Association now informs you we are not asking for an advance in the state rates. (920)

Mr. Humburg: What, if anything, do you desire to say concerning the relationship of rates betwewen Quincy and Keokuk or between Keokuk and St. Louis as applied to traffic to and from points in Illinois?

Mr. Farrell: The rates from Quincy into Illinois were advanced five per cent., but they are suspended by the Public Utilities Commission. The advance from Keokuk into Illinois was allowed to go into effect by the Interstate Commerce Commission just the same as the basis of rates from St. Louis to Illinois was. That is also true of Hannibal. It would seem, therefore, that there was some discrimination against Keokuk and Hannibal in favor of Quincy, Springfield and Peoria, competing jobbing centers, after the same trade as Keokuk in what might be called Keokuk's jobbing
2091 territory, about 75 or 100 miles east of the Mississippi River. In other words, the state rates were not advanced and the Keokuk rates were advanced.

Mr. Humburg: In principle the situation at Keokuk is not substantially different from what it is at St. Louis?

Mr. Farrell: I would say it was exactly the same as far as the Wabash is concerned.

Mr. Humburg: And that there may be applied to that situation all of the evidence in principle that has been submitted with respect to the St. Louis-Illinois situation?

Mr. Farrell: I should think so. (1302-3.)

* * * * * * *

2092 *Section 38. Track Elevation in Chicago More Than Offsets Bridges Across the Mississippi River at St. Louis in Expense of Construction and Maintenance. Evidence of F. L. Thompson.*

His evidence shows that, including the estimated expense incident to work now under ordinance, the expense to the Illinois Central R. Co. of elevating its tracks in Chicago is $5,886,000.00; that the expense to all steam railroads in Chicago from 1891 to and including the calendar year 1914 was $73,320,293.11, requiring the construction of 985 subways over streets; and that to complete the work now under ordinance would bring this expense to $89,479,527.21; that the approximate cost of reproducing bridges of the character of those at St. Louis across the Mississippi River is from three to three and one-half million dollars each.

Mr. F. L. Thompson testified: I am assistant chief engineer of the Illinois Central R. Co., and have had to do with track elevation matters for that company since 1907, especially in Chicago, Ill., and under the chief engineer I have had direct charge of such work. The amount expended by the Illinois Central for elevating its tracks in Chicago to and including the calendar year 1914, on its lines south, *i.e.*, on the main line from Chicago toward Cairo, was $3,561,000, and on its lines west, i. e., Chicago to East Dubuque, $309,009. We also have under ordinance and are now working on track elevation that will cost $2,325,000 to complete, making a total expense of $5,886,000.00 to the Illinois Central of carrying out the work ordered by the City of Chicago. Some of this track elevation work is now going on on our lines south between Burnside and Kensington (993-4).

On the work up to and including the year 1914, there have been constructed 58 subways. The estimate of expenses not yet incurred is arrived at by making estimates of the work after the track
2093 elevation ordinance has been passed by the city council, based on the specifications as outlined in the ordinance, and the prices used are based on the cost of work that has heretofore been done (994-5).

There is usually what is known as a contract-ordinance, which contains certain specifications of the nature of the work; the work is described in detail as to the streets where the subways go and the height above the streets (995).

We have in the City of Chicago a line running from our main line south near 67th street to South Chicago, about 4 miles long. We have been requested to attend meetings of the city council to see about elevating that branch line. Our estimates on the cost of that work would be about $1,500,000 in addition to the items heretofore given.

Mr. Humburg: There is also some track elevation going on in the Town of Cicero, which is a suburb of the City of Chicago?

Mr. Thompson: Yes, sir; we are elevating our tracks there about 2 miles; just west of the limits of the City of Chicago. That will cost about $275,000 (995-6).

(Here follows blue-print, marked page 2092*a*.)

Track Elevation Completed or Under Construction at End of Year 1914.

Railroad.	Total No. grade crossings eliminated & subways constructed.	Amount spent to end of calendar year 1914.	Estimated amount to complete work under ordinance at that date.	Total amount.
A. T. & S. F. Ry.	23	$554,604.36	.....	$554,604.36
B. & O. Ry.	10	1,691,062.02	.....	1,691,062.02
B. & O. C. T. Ry.	58	3,900,000.00	$1,225,000.00	5,125,000.00
C. B. & Q. Ry.	45	4,463,148.70	.....	4,463,148.70
C. J. Ry.	57	1,535,000.00	120,000.00	1,655,000.00
C. M. & St. P. Ry.	47	3,705,653.74	844,346.26	4,550,000.00
C. R. I. & P. Ry.	59	3,223,900.69	499,887.84	3,723,788.53
C. & A. R. R.	35	1,275,237.09	118,000.00	1,393,237.09
C. & I. W. R. R.	4	2,000,000.00	.....	2,000,000.00
C. & N. W. Ry.	226	14,447,300.00	2,000,000.00	16,447,300.00
C. & W. I. R. R. & Belt Ry. of Chicago	95	11,844,733.00	8,000,000.00	19,844,733.00
G. T. W. Ry.	25	452,665.00	.....	452,665.00
I. C. R. R.	24	3,561,311.34	2,325,000.00	5,886,311.34
C. M. & N. St. C. A. L.	(11) 23	309,000.00	.....	309,000.00
I. H. B. R. R.	22	597,000.00	.....	597,000.00
Illinois Northern Ry.	1	300,000.00	.....	300,000.00
L. S. & M. S. Ry.	70	7,298,315.17	465,000.00	7,763,315.17
N. Y. C. & St. L. Ry.	5	1,144,563.00	387,000.00	1,531,563.00
P. C. C. & St. L. Ry.	62	3,094,666.00	.....	3,094,666.00
P. Ft. W. & C. Ry.	78	6,040,133.00	.....	6,040,133.00
Wabash R. R.	11	214,000.00	150,000.00	364,000.00
Central Terminal R. R.	5	1,668,000.00	25,000.00	1,693,000.00
Total	985	$73,320,293.11	$16,159,234.10	$89,479,527.21

Thompson Exhibit 1 (is a blueprint, here reproduced and it) shows the expense to which all roads in Chicago have been subjected in elevating their tracks. This information was secured from reports made by the railroad to the Commissioner of Track Elevation of the City of Chicago, and later, in the last ten days, we took up the question of the accuracy of these figures with each of the lines interested and had the figures verified, and the figures on this exhibit are the result of that investigation. The total subways that will be constructed when this work is completed is 985; the total amount spent to the end of the calendar year is 1914 on this work was $73,320,-293.11. The cost to complete the work by the different railroad companies under ordinance is estimated at $16,159,234, making a total cost of track elevation work when completed $89,479,527.21 (997).

This expense of $73,320,293.11 covers a period from 1891 to date. It does not represent the cost of any tracks at all. It is the cost of elevating the tracks, building subways, filling and paving the streets, and whatever it takes to make up the elevation. The
2094 cost of the tracks not elevated is not included in this amount. The elevated tracks are used for the general railroad business, serving the City of Chicago. Both freight and passengers are transported over them to and from Chicago (998).

I was engineer of bridges of the Illinois Central for several years and made estimates for bridges similar to these at St. Louis.

Mr. Bryan: What in your judgment is the proper cost of these (St. Louis) bridges to reproduce them?

Mr. Thompson: I estimate the approximate cost to reproduce bridges of the character of the bridges now crossing the river from three to three and a half million dollars each (999).

The track elevation expense I named does not include the expenditure on the tracks above the structure. It does not include the cost of any tracks, depots or stations, but only the expense of raising the level, and building the bridges over the streets, the necessary retaining walls and other things that go to make up track elevation.

Mr. Barlow: (Speaking of the large expenditure recently made at Grand Crossing) Was not that expenditure made by the railroads in order to get rid of that dangerous situation and delay there rather than any coercive measures on the part of the City of Chicago (1004-5).

Mr. Thompson: Well, our executive officers and the executive officers of the other railroads interested were called into Mayor Busse's office and told that work would have to be done, those grades would have to be separated from the railroads.

Mr. Barlow: That is, the separation of the grade at the grade crossing was the direct act of the City of Chicago?

Mr. Thompson: Yes, sir.

Mr. Barlow: Is it not a fact that the railroads were in sympathy with the movement to get rid of that dangerous crossing there?

Mr. Thompson: I think you are right about that.

Mr. Humburg: We do not want to obstruct cross-examina-
2095 tion but it is not material whether it was forced or not forced. The expense is there (1005-6).

Mr. Humburg: You were asked about saving to this company by reason of track elevation. Have you made at any time a calculation of what that saving was in per cent.?

Mr. Thompson: The last ordinance we accepted was for raising our tracks from Grand Crossing to Kensington. The cost of that was about $2,800,000. We made some figures on that as to the direct saving, eliminating crossing watchmen, flagmen, and it was something less than one-half of one per cent. (on that expense) (1012-13).

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2096 *Section 40. Terminal Railroad Association of St. Louis Described by Stith upon Request of Intervener, East Side Manufacturers' Association.*

Mr. W. C. STITH, called as a witness by the attorney for the East Side Manufacturers' Association, testified: I am Traffic Manager of the Terminal Railroad Association of St. Louis; have been connected with the Traffic Department of the railway service in St. Louis and Kansas City for about 33 years; for the last 3½ years with the Terminal Railroad, and as its Traffic Manager since June, 1915. (1672.)

The character of the companies I represent are a number of corporations in St. Louis, Missouri, and East St. Louis, Illinois, and adjacent territory forming a switching system here. They consist chiefly of the Terminal Railroad Association of St. Louis, the St. Louis Merchants Bridge Terminal Railway Company, the Merchants Bridge and the Eads Bridge and Wiggin's Ferry Company, with the St. Louis Transfer Railway Company on the west of the Mississippi River, and the East St. Louis Connecting Railway Company on the east of the Mississippi River, and the Interstate
2097 Car Transfer Company. Those are the principal operating companies and are engaged in performing a switching service over the territory that they cover.

The Terminal Railroad Association of St. Louis is a unification into one compact terminal organization of the several terminal bridge and ferry companies. The organization of the terminal, bridge and ferry companies now forming part of this Association, the purposes of such organization, the properties at any time owned or ocntrolled by them, the relation of these properties to each other and the agreements with respect to the use thereof, the growth and development of terminal facilities in the Cities of St. Louis and East St. Louis and the uses to which they are put, as well as the terms and conditions upon and the purposes for which the same are operated and controlled, are more or less matters of public record. (1672-3)

Mr. Ropiequet: In 1889 what change, if any, was made in the operation of these properties? (1673)

Mr. Stith: In 1889, Mr. Jay Gould, who was then in control, through stock ownership, of the Missouri Pacific Railway, and of the Wabash Railroad Company (the successor of the Wabash, St. Louis & Pacific Railway Company), both of which companies had termini in the City of St. Louis, and were largely interested in the develop-

ment and growth of the city, entered into an agreement, under date of October 1st, 1889, with the Cleveland, Cincinnati, Chicago & St. Louis Railway Company, Wabash Railroad Company, Ohio & Mississippi Railway Company, (now the Baltimore & Ohio Southwestern Railroad Company), St. Louis, Iron Mountain & Southern Railway Company, Louisville & Nashville Railroad Company and the Missouri Pacific Railway Company, for the purpose of securing an efficient and economical system of handling freight and passenger traffic at St. Louis and East St. Louis, and enlarging and perfecting the system for handling such traffic. By the terms of this agreement Mr. Gould, who had by individual purchase personally acquired the capital stock of the two Union Railway & Transit Companies, the two Terminal Railroad Companies and the Union Depot Company, agreed with the railroad companies just named, parties to the agreement, to cause the Union Railway & Transit Company of St.
2098 Louis and the Terminal Railroad of St. Louis to be consolidated as the Terminal Railroad Association of St. Louis, and to cause to be conveyed to this consolidated company the property of the Union Depot Company and the capital stock of the Union Railway & Transit Company of Illinois and the Terminal Railroad of Illinois and to further cause a portion of the capital stock of the Terminal Railroad Association of St. Louis to be issued, in equal parts and without cost, to the six railway companies named, the remainder of the stock to be retained and to be issued to such other railroad companies as might thereafter desire to become parties to the agreement. The agreement further provided that Mr. Gould would cause to be transferred to the Terminal Association the leasehold interests of the Missouri Pacific Railway Company and the Wabash Railroad Company in the bridge and tunnel above described. It was also provided that the Terminal Association should issue its bonds to the extent of $7,000,000, of which $5,000,000 should be used for payment for the purpose of the properties to be conveyed to and vested in the Terminal Association, and the remaining $2,000,000 should be used, to purchase additional real estate and construct additional passenger and freight terminal facilities in St. Louis and East St. Louis. The railroad companies parties to this agreement were, by a concurrent agreement, granted the right in perpetuity of joint use with each other and such other companies as might from time to time be admitted as proprietary lines of the Terminal Association of all its properties, the use so granted to be appurtenant to each railroad. The railroad companies parties to this agreement on their part accepted in perpetuity the joint use of the property of the Terminal Association, and agreed that the charges for the use so granted should be sufficient to pay the fixed charges provided for in the leases of the bridge and tunnel properties, the interest on the bonds given for the purchase price of the terminal properties, interest on such future sums as might be expended in the acquisition of additional properties, and to pay taxes and operating expenses. The agreement also provided for the subsequent admission, at any time thereafter, of any other railroad company desiring such admission. (1674-5-6)

2099 Mr. Ropiequet: What were the fixed charges on the bridge and tunnel properties thus assumed by the Terminal Railroad Association?

Mr. Stith: The fixed charges on the bridge and tunnel properties thus assumed by the Terminal Association were and are interest at seven percentum on $5,000,000 of bridge bonds, annual dividends of $6 per share on $2,490,000 of first preferred bridge stock, $3 per share on $3,000,000 of second preferred bridge stock, $6 per share on $1,250,000 of tunnel stock, and all taxes on these properties. (1664-5-6-7)

Mr. Ropiequet: Please describe the properties acquired by the Association in 1889.

Mr. Stith: The properties acquired by the Terminal Railroad Association in 1889 consist of the Eads Bridge and Tunnel Railroad, a small tract of land in the City of St. Louis near the east approach of the bridge, and a right of way some 100 feet in width extending from 8th and Poplar streets in the City of St. Louis, westward to about 18th street, and adjoining this right of way various parcels of land on which are located switches and sidetracks. (1677)

Mr. Ropiequet: Name the proprietary lines that terminate on the west bank of the Mississippi River and those on the east.

Mr. Stith: Of the 15 proprietary lines those terminating on the west bank of the river are the Missouri Pacific Railway Company, St. Louis, Iron Mountain & Southern Railway Company (main line), Wabash Railroad Company (western line), St. Louis & San Francisco Railroad Company, Chicago, Rock Island & Pacific Railway Company, Chicago, Burlington & Quincy Railroad Company (St. L. K. & N. W. line), and the Missouri, Kansas & Texas Railway Company. Those terminating at the east bank of the river are the Wabash Railroad Company (eastern line), Cleveland, Cincinnati, Chicago & St. Louis Railway Company, Ohio & Mississippi Railway Company (B. & O. S. W.), Louisville & Nashville Railroad Company, Vandalia Railroad Company, Southern Railway, Illinois Central Railroad, Chicago & Alton Railroad, Chicago, Burlington & Quincy Railroad (east side line), St. Louis, Iron Mountain & Southern Railway (val-
2100 ley division), St. Louis Southwestern Railway Company.

Mr. Ropiequet: Do any of the lines forming the Terminal Railroad Association have connecting lines between the east and west sides of the river?

Mr. Stith: Of the fifteen proprietary lines none of them run through the Cities of St. Louis and East St. Louis. None of these lines have any connecting link between the east and the west side of the river at St. Louis save through the medium of the Terminal Railroad Association. The St. Louis, Iron Mountain & Southern, in conjunction with the Missouri Pacific, maintain a car ferry known as the Ivory Transfer, at a point south of and outside of the city limits of St. Louis by means of which a considerable portion of their through trans-river busines- is handled, but both the Missouri Pacific and St. Louis, Iron Mountain & Southern send a large volume of their business over the river in both directions over the facilities fur-

ished by the Association. At times when the Ivory Transfer is not n operation the entire trans-river traffic of these lines moves over ssociation facilities. (1677-8-9)

Stith Exhibit 1 is a statement of fixed charges created or amended y the Terminal Railroad Association and guaranteed by the pro-rietary lines, dated December 1, 1913.

I think 8½ miles is a representative average weighted haul of the ovement of general traffic over the Terminal Railroad Association's acks. It might not be absolutely correct. I think it is approxi-ately correct. (1681)

Mr. Ropiequet: What has been the development of the facilities f the Association?

Mr. Stith: The development of the facilities of the Association has een rapid since its organization. It now has, in round numbers, 294 iles of track; in round numbers, on the west side, 127 miles and in ound numbers, on the east side, 167 miles. Included in this mile-ge are the four classification yards on the east side, conveniently lo-ated and constructed upon the most approved lines for efficiency and economy, as well as two yards of similar character on the west
101 side. All this track is in good physical condition, well located for the purposes for which it is intended, and all in more or ss constant use. A large portion of the facilities on both sides of he river are in congested districts where the traffic movement is con-nuous, not only over rails of the Terminal Association, but also over her lines, with their network of parallel tracks and crossings, mak-ng the operation a most difficult problem.

Mr. Ropiequet: What is the extent of area served by rails of the erminal Railroad Association?

Mr. Stith: The rails of the Association serve a large portion of the 4 square miles within the limits of the City of St. Louis, especially at along the river front north of Arsenal street, the Mill Creek Val-y, northern and northwestern parts of the city. In these districts e the greatest manufacturing and commercial enterprises of the ty. (1680-81)

Mr. Ropiequet: Which is the most remunerative and the most rofitable switching to the Association, the east or the west side?

Mr. Stith: The east side. (1681-2)

ection 41. Campbell's Tables for East Side Manufacturers' Association.

Mr. T. F. CAMPBELL testified: I am a public accountant and au-itor at St. Louis, Mo.; I have made some compilations on behalf of he East Side Manufacturers' Association.

Campbell Exhibit 1 is a plat of St. Louis and vicinity, published y the Terminal Railroad Association of St. Louis and the Wiggins erry Company. Campbell Exhibit 2 is the report of the Municipal ridge & Terminal Company, the preliminary report of November 5th, 1905, additional report June 1st, 1906, and a fourth report of lay 4th, 1907.

Campbell Exhibit 3 is an excerpt from Terminal Allowance case. ampbell Exhibit 4 is an excerpt from the Illinois Coal Case, 32 I.

C. C., 677. Campbell Exhibit 5 is an excerpt from the Five Per Cent Case, 31 I. C. C., 401. Campbell Exhibit 6 is Wettling Exhibit 9 in the Western Advance Rate Case, I. & S., 555. Campbell Ex-
2102 hibit 7 is Wettling Exhibit 65 in the Western Rate Advance Case, I. & S., 555.

Campbell Exhibit 8 is a comparison of the tables for Illinois based on the reports of the Railroad & Warehouse Commission of Illinois for the years 1904, to 1913, inclusive, compared with the statistics compiled and published by the Bureau of Railway Economics in report consecutive number 81. (1702-8)

Campbell Exhibit 9 is a comparison of freight and passenger traffic in Illinois for 6 years, 1908 to 1913 as contained in the reports of the Railroad & Warehouse Commission.

Campbell Exhibit 10 is a compilation of freight and passenger statistics from the Illinois Railroad & Warehouse Commission reports for 1908-1913, and Exhibit 11 of freight tonnage from the same report.

Examiner Gutheim: Does Mr. Campbell know anything about these?

Mr. Ropiequet: No, sir, he just compiled them. (1712)

2103 *Part IV. Financial Data—Freight and Passenger.*

The evidence submitted by L. E. Wettling and others illustrates quite forcibly that the respondents are not earning a reasonable return for their service and for the use of the property by them devoted to their quasi-public business, especially as applied to their lines and traffic in Illinois. It is quite apparent from these data that the respondents' financial condition is such that, while the unjust discrimination complained of and which is admitted should be removed, the result should be accomplished without requiring any reduction whatsoever in the respondents' present interstate fares and rates applicable between St. Louis and points in Illinois.

The "exhibit filed by the State Public Utilities Commission of Illinois," consisting of a volume of 19 pages, was not delivered to us until late in the afternoon of January 12, 1916. The time intervening before the mailing of our brief on the evening of January 15, 1916, is too short to treat that exhibit in this brief. We shall therefore treat it in our reply brief.

Section 42. All Steam Roads Having Over 28 Per Cent. of Their Mileage in Illinois (and Having Each Over $1,000,000 Gross Operating Revenue Per Year) Treated as a Unit Earned in 1914 Less Than Two and One-half Per Cent. on the Book Value of Their Property. Maxwell's Evidence.

It shows per Maxwell Exhibit 1 that from July 1, 1907, the date when the Commission's new accounting rules took effect, to July 1, 1914, these roads, treated as a unit, increased their property investment (book value) by 111 million dollars; that while their operating revenues increased 47 million dollars, in 1914 over 1908,
2104 their expenses, in 1914 over 1908, increased 51 million dollars; that the operating ratio, including taxes, increased from

76 per cent. to 85.3 per cent., and that while they earned on the book value of their property 3.76 per cent. in 1908, they earned only 2.18 per cent. in 1914. Other equally interesting data are shown in what follows.

In this connection, it should be noted that substantially the same exhibit was introduced by the same witness in Grain Rates in C. F. A. Territory, 28 I. C. C., 549, 558, except that the former exhibit closed with the fiscal year 1913, and the Commission said concerning it:

"The carriers claim, in the second place, that they require additional revenue. A statement was filed combining the financial operations of 10 of these carriers which showed that in the last five years these companies had added $100,000,000 new capital to their properties; that since 1908 their gross revenues had increased by $46,000,000, but that nevertheless their operating revenue, after the payment of taxes, was almost exactly the same for the year 1913 as for the year 1908. This statement as well as the figures introduced by individual carriers may well challenge attention, but it does not demonstrate the justice of this increase. Many of these companies only transport this grain a comparatively short distance, while the rate under consideration is that from Illinois to the Atlantic seaboard. It seems that under the method of this increase these Illinois carriers will obtain the entire benefit of the increase in rates, and should it appear from other considerations that this increase is a proper one the financial showing of these carriers goes far toward convincing that the increase should be allowed. But if need for additional revenue is to be made the substantive justification for this increase, all carriers, or at least all the principal carriers which handle this traffic, should be parties, and this means that this question should be tried in that proceeding in which eastern carriers as a whole are now demanding an increase in rates. It would be both premature and improper to express here any opinion upon that general subject."

2105 In the other proceeding alluded to, viz., the Five Per Cent. Case, the Commission found the carriers were in need of additional revenue and their advanced rates were sustained.

Mr. W. C. MAXWELL, now Vice-President of the Wabash Railroad Company, and at the time of the hearing its General Traffic Manager, testified further: Maxwell Exhibit 1 (reproduced below) shows for the fiscal year ended June 30, 1908, to, and including June 30, 1914, certain (entire line) statistical data pertaining to a group of Illinois roads. It shows the income and operating accounts of twelve Illinois roads designated as Group A, from 1908 to 1914. The year 1908 was selected as the starting point because that is the year in which the Interstate Commerce Commission changed the method of keeping the accounts effective July 1, 1907. We tried to get a typical group representative of the situation of roads having a material portion of their mileage in Illinois. These twelve roads represent all of the large roads having 29 per cent. (28.8 per cent.) or more of their mileage in this state. The grouping shows that the Chicago & Alton Road has 1,032 miles in all and 767 miles or 74.1 per cent. of the total mileage is in Illinois; 54.2 per cent. of the C. & E. I.'s

mileage is in Illinois; 41.8 per cent. of the C. I. & S. mileage, and 100 per cent. of the C. P. & St. L. mileage. It is all shown in the exhibit. (545-6)

Group C is a list of small roads earning less than one million dollars per year each and is really cast aside. They have (nearly) all their mileage in Illinois. It is cast -side because not representative. Most of those roads are in bad shape financially.

Group B deals with all the balance of the roads in Illinois and shows that they have very large mileage (outside the state) as illustrated by the Santa Fe, operating 8,237 miles with 290 miles, or 3½ per cent. in Illinois. This is probably not representative of the situation in Illinois. They might be very prosperous and still lose money on their Illinois business, or not make very much. Only 7.1 per cent. of the mileage of the roads in Group B is in Illinois.

Now Group A, which is typical of the situation in Illinois, shows that from 1908 to 1914 the (their) property investment dur-
2106 ing that period increased 111 million dollars. The service to the public, operating revenue, was 47 million dollars greater in 1914 than in 1908. The operating expenses were 51 million dollars greater in 1914 than in 1908. The taxes in 1908 were $5,326,000 and in 1914 $8,560,000. The operating expenses and taxes in 1908 were $115,000,000 and in 1914 $170,000,000.

The operating ratio (including taxes) of those roads in 1908, and so on right through the period of years was: 76 per cent. in 1908 and 85.3 per cent. in 1914. It shows the gradual rise in the operating ratio, particularly strong from 1910 to 1914. (546-8)

The net operating income, after having invested $111,000,000 more in the property and after having served the public to the extent of $47,000,000 more than in 1908, was in 1914 $22,417,000 as against $34,526,000 in 1908.

The return on the property investment was 2.18 per cent. in 1914, 3.76 per cent. in 1908, 3.77 per cent. in 1909 and 4.16 per cent. in 1910, showing the constant decline in the operating ratio down to 1914 when the low point is reached.

Taking these roads in Group A as a whole, the net corporate income of those railroads, which is all they had applicable to pay dividends in 1908 was $13,000,000, in 1914 it was $2,949,000 in red. The decline in dividends—there was $11,000,000 paid in 1908 and $6,449,000 in 1914. Nearly all of the dividend that was paid by these roads as a whole was paid by the Illinois Central and that railroad has outside operating income of about $5,000,000 from other than the operation of the property. The margin in 1914 was $9,398,000 in red.

I have made these comparisons with 1908. There is a table showing the same comparisons of 1914 with 1910 and 1914 with 1912 at the foot below the main part of the statement. (548-9)

Said Maxwell Exhibit 1 reads as follows, the figures here appearing in bold faced type are red in the original exhibit.

(Here follows Maxwell Exhibit No. 1, marked pp. 2107 and 2108.)

MAXWELL EXHIBIT 1.

OPERATING AND INCOME ACCOUNT, TWELVE ILLINOIS ROADS, "GROUP A."

Fiscal Years	Mileage Operated	Property Investment	Operating Revenue (Including Outside Operations)	Operating Expenses (Including Outside Operations)	Taxes	Operating Expenses and Taxes — Amount		Railway Operating Income	Hire of Equipment, Joint Facilities, Etc. (Net)	Net Operating Income — Amount	Net Operating Income — Return on Prop. Invest.	Other Income	Total Income	Total Interest and Miscellaneous Deductions	Net Corporate Income	Dividends	Margin
1908	14,064	$ 919,228,676	$152,007,938	$110,350,857	$5,326,961	$115,677,818	76.0	$36,330,120	$1,804,062	$34,526,058	3.76	$4,529,081	$39,055,139	$25,865,228	$13,189,911	$11,412,633	$1,777,278
1909	14,558	930,098,050	154,108,122	109,771,002	5,634,124	115,405,126	74.8	38,702,996	3,589,536	35,113,460	3.77	5,366,655	40,480,115	26,079,100	14,401,015	11,860,742	2,540,273
1910	14,598	925,494,336	177,200,928	127,382,607	6,239,598	133,622,505	75.2	43,578,423	5,040,003	38,538,420	4.16	4,892,246	43,430,666	26,200,853	17,229,813	13,669,036	3,560,777
1911	14,988	958,668,836	186,757,592	137,610,762	6,667,528	144,278,290	77.4	42,479,302	4,815,760	37,663,542	3.93	5,780,933	43,444,475	28,174,449	15,270,026	11,291,632	3,978,394
1912	15,173	979,758,236	185,342,806	143,888,902	6,836,334	150,725,236	81.1	34,617,570	5,090,828	29,526,742	3.01	4,700,126	34,226,868	28,052,825	6,174,045	9,918,493	3,744,450
1913	15,296	1,010,635,546	204,713,103	158,413,293	7,860,286	166,673,579	81.1	38,039,524	5,810,004	32,829,520	3.24	6,365,430	39,194,950	30,831,815	8,363,135	8,534,759	171,624
1914	15,599	1,030,208,781	199,517,950	161,837,631	8,560,778	170,398,409	85.3	29,119,541	6,702,387	22,417,154	2.18	7,508,439	29,925,593	32,874,674	2,949,081	6,449,154	9,398,235
Increase 1914 vs. 1910 Decrease	1,001	104,714,445	22,317,022	34,455,024	2,320,680	36,775,904	10.1	14,458,882	1,662,384	16,121,266	1.98	2,616,193	13,505,073	6,673,821	20,178,894	7,219,882	12,959,012
Increase 1914 vs. 1912 Decrease	426	50,450,545	14,175,144	17,948,729	1,724,444	19,673,173	4.2	5,498,029	1,611,559	7,109,588	.83	2,808,313	4,301,275	4,821,849	9,123,124	3,469,339	5,653,785

1914 comparisons are made with 1910 and 1912, account these being the best and worst previous years, respectively, in the period.

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MILEAGE AND GROUPINGS OF ILLINOIS ROADS.

Group A (See Note 1)	Mileage Operated		% Ill. to Total
	Total	Ill.	
C. & A.	1,032	767	74.1
C. & E. I.	1,275	692	54.2
C. I. & S.	359	150	41.8
C. P. & St. L.	255	255	100.0
C. T. H. & S. E.	362	114	31.5
C. C. C. & St. L.	2,296	639	28.8
E. J. & E.	349	154	44.1
I. C.	4,763	2,050	43.1
T. P. & W.	248	248	100.0
T. St. L. & W.	451	180	39.9
Vandalia	910	324	35.7
Wabash	2,515	742	29.4
Total	14,815	6,335	42.7

Group B (See Note 2)	Mileage Operated		% Ill. to Total
	Total	Ill.	
A. T. & S. F.	8,237	290	3.5
B. & O.	4,456	401	9.0
C. & O. of I.	285	20	7.0
C. & E.	270	20	7.4
C. & N. W.	8,026	756	9.4
C. B. & Q.	9,141	1,798	19.7
C. G. W.	1,496	177	11.8
C. I. & L.	617	20	3.2
C. M. & St. P.	9,710	476	4.9
C. R. I. & P.	7,572	365	4.8
C. H. & D.	1,015	205	17.8
G. T. West.	347	30	8.6
L. E. & W.	906	120	13.2
L. S. & M. S.	1,872	23	1.2
L. & N.	4,923	180	3.7
M. C.	1,819	79	4.3
M. & St. L.	1,586	92	5.8
M. St. P. & S. S. M.	3,976	63	1.6
M. & O.	1,114	167	14.9
N. Y. C. & St. L.	565	19	3.4
Pa. Co.	1,751	31	1.8
P. M.	2,330	41	1.8
P. C. C. & St. L.	1,472	30	2.0
St. L. I. M. & S.	3,364	250	7.4
St. L. S. W.	905	157	*17.4
Southern	7,036	163	2.3
Total	84,791	5,973	7.1

Group C (See Note 3)	Mileage Operated		% Ill. to Total
	Total	Ill.	
C. & I. M.	25	25	100.0
C. M. & G.	128	128	100.0
I. S.	135	93	68.9
I. T.	19	19	100.0
L. & M.	44	44	100.0
St. L. T. & E.	26	26	100.0
St. L. & O'F.	9	9	100.0
W. C. & W.	65	65	100.0
Total	451	409	90.5

NOTE 1.—Roads for which complete statistics are presented.
NOTE 2.—Roads having major interests in other territories.
NOTE 3.—Roads with less than $1,000,000.00 gross.
*Thebes, Ill., only point affected.

SUMMARY.

	Total Mileage Operated	Illinois Mileage Operated	% Ill. Mileage to Total Ill. Mileage
Group A	14,815	6,335	49.8
Group B ("outside")	84,791	5,973	47.0
Group C ("small")	451	409	3.2
Total	100,057	12,717	100.0

(R. R. & Warehouse Commission Rep. 1913, Vol. 1.)

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2109 *Section 43. Wettling's Evidence.*

Mr. L. E. WETTLING testified: I reside in Lincoln, Nebr., and am engaged in public accounting business; my accounting experience began in St. Louis in 1879 in a wholesale grocery house, and ran until 1882; from then until 1892 I was bookkeeper, cashier, and part of the time assistant manager for a wholesale branch distributing oyster house of Baltimore in St. Louis and Kansas City; then manager for the same house in Omaha, Nebr. Since 1895, I have devoted the larger part of my time to the auditing and accounting business, covering the making of municipal accounts, general wholesale and retail mercantile accounts, building and loan associations, insurance companies, banking business, express business, gas business, electric light, street railway, telephone and railroads. During a large part of the time from 1899 to 1909 I was treasurer of a fire insurance company and assistant cashier of a bank at Lincoln, Nebr., but during that time prosecuted the accounting business off and on for important cases at various times. During that time I was employed by the Attorney General of the State of Nebraska in the so-called railroad tax cases. In 1907 I was again employed by the Attorney General and the Nebraska State Railway Commission jointly in the express cases, and beginning 1909 and up till January, 1914, was jointly employed by the Attorney General and the Nebraska State Railway Commission for various rate cases covering both railroad, express and telephone principally, as well as street railways. In 1914 I resigned and opened an office as public accountant and in the summer of 1914 was employed by a committee of counsel representing the western railroads to compile statistics and figures in the Western Rate Advance Case, which is known as I. & S. Docket 555. Later I was also employed by practically the same committee, with some additional members, to undertake the same work generally for the Western Passenger Fares Case, known as I. & S. Docket 600. Shortly after my employment with this committee of western railroads, I was called into conference by a committee of accountants and traffic men of the Illinois railroads with a view to under-
2110 taking practically the same line of work for the Illinois Five Per Cent. Case, and later was employed to compile data for use in the instant case.

Pursuant to that employment and the conference held a set of forms were prepared asking the railroads to make returns in conformity with the returns theretofore made in the annual reports made to the Illinois Railroad and Warehouse Commission and Illinois Public Utilities Commission and lodged with them for each of the years 1908 to 1914.

In this same connection a special study was made of the separation of revenues and expenses for the year 1914, first as between state and entire line operations, and, second, as between freight and passenger.

I delegated one of my principal assistants in the Western Rate Case to do the preliminary work and look after the receipt and checking and general preliminary work on the statistics as they were returned

by the individual railroads, and since August, 1915, I have given all of my time to the Illinois Five Per Cent. Case and this St. Louis Business Men's Case. My evidence will relate to the presentation of a composite of the data so collected.

(*b*) Special Study of Data for Fiscal Year Ended June 30, 1914.

Mr. WETTLING testified further: For the fiscal year ended June 30, 1914, a study was made based upon the formula devised by the committee of accounts for these roads here interested and submitted to the Illinois Public Utilities Commission and their accountants with a view to reaching a tentative agreement, at least, as to a fair and acceptable method of making division, first, as between states for common items, and second as between freight and passenger for common items. By common items I mean such items as could not be definitely localized to either one service or the other. The chief accountant of the Commission was served with a copy of this formula, conference was had, and after such conference the formula was then submitted to each of the carriers for basing a special study for 1914, and in these general statistics running through from Wettling
2111 Exhibit 1 to Exhibit 25; the 1914 returns to the Illinois Commission will not absolutely agree with the special study made by reason of the different methods applied to the division under the special study. (696)

Mr. Humburg: And in that connection it is fair to state, is it not, that the chief accountant of the Public Utilities Commission wrote a letter to the accountants stating his views about that formula, and I suppose the interveners will desire to put that letter in evidence here, as it was put in evidence before the State Public Utilities Commission.

Mr. Wettling: Generally the only objection which lay against the formula was expressed in his opinion that it was unfair to localize all the terminal expenses of Chicago to Illinois expenses. (697)

The more material part of said formula (part of Wettling Exhibit 27) is as follows:

Formula for Assigning Operating Expenses to States and in Allocating Such Charges Between Freight and Passenger Traffic.

In the preparation of the data under this formula, it is the intention that suburban passenger expenses should be separately stated as the statistics, both revenue and expenses, are intended to apply to the regular business only.

Any expenditure which can be allocated exclusively to a particular state, to the freight service or to the passenger service should be so allocated.

In allocating expenditures to states, an apportionment should first be made to operating divisions and the expenses incurred in a particular state should be charged with the expenses of divisions lying wholly within a state and the expenses of divisions traversing two or more states should be allocated on one or more of the bases stated below. In illustration, refer to Account No. 103, "Transportation

Expenses, Injuries to Persons," the amount paid for injuries sustained by individuals should be allocated to states according to the locality where the injury occurred, but as this account includes a proportion of the expenses of the Claim Department, a portion of such expenses should be assigned to the state by first assigning a proportion of the expenses of that department to operating divisions and then apportioning to the state such proportion of any operating division which may lie partly within one state and partly within another on the basis as stated below.

Under certain accounts, portions of the expenditures may be incurred on account of freight or passenger service and the balance may be common to both. An illustration of this might be that expenditures for rails, ties, ballast and some other items may apply to exclusively freight yards, exclusively passenger yards or to the roadway service. The portion expended for the freight yards should be allocated to the freight service, the portion for passenger yards to the passenger service and the general roadway portion would be common to both classes of service and should be allocated on one or more of the bases stated below.

2112 All expenditures which can be allocated exclusively to respective states or to the freight or passenger service should be so allocated, and the following bases are referred to by numbers opposite the various primary accounts in operating expenses for the purpose of allocating to states or to the freight or passenger service such expenditures as are common to two or more states or are common to the freight and passenger service.

In calculating mileage, mixed train miles, mile of locomotives in mixed train service and ton mileage for locomotives in mixed train service should be counted 100% in each class of service.

*Basis No. 1—Revenue passenger and freight train mileage in each state total revenue passenger and freight train mileage of division or entire line.

Basis No. 2—One-half to each state.

Basis No. 3—Total of located charges to the account in each state to total of located charges on entire line.

Basis No. 4—Total revenue locomotive mileage in each state to total revenue locomotive mileage of each division or entire line.

Basis No. 5—Total passenger train car mileage in each state to total passenger train car mileage of each division or entire line.

Basis No. 6—Total freight car mileage in each state to total freight car mileage of each division or entire line.

Basis No. 7—One-half to each state between which boats ply.

Basis No. 8—Total work train mileage in each state to total work train mileage of each division or entire line.

*Basis No. 9—Total revenue passenger train mileage in each state to total revenue passenger train mileage of each division or entire line.

*Basis No. 10—Total revenue freight train mileage in each state to total revenue freight train mileage of each division or entire line.

Basis No. 11—Total switching mileage in each state to total switching mileage in the individual yard which lies in two or more states.

Basis No. 12—Total passenger road engine mileage in each state to total passenger road engine mileage of each division or entire line.

Basis No. 13—Total freight road mileage in each state to total freight road engine mileage of each division or entire line.

Basis No. 14—Total freight or passenger revenue train mileage to total revenue freight and passenger train mileage of each division or state.

Basis No. 14*a*—Total freight or passenger revenue locomotive ton mileage to total revenue freight and passenger locomotive ton mileage of each division or state. By revenue locomotive ton mileage is meant the weight of the locomotive and tender, plus 60% of the coal and water capacity of the tender, multiplied by the miles run by the locomotive. Weight of water should be calculated on the basis of eight pounds per gallon. Illustration—A locomotive weighs 250,000 lbs., tender weighs 180,000 pounds and has a capacity of 15 tons of coal and 9,000 gallons of water. The locomotive runs, say, a distance of 100 miles. 60% of the coal and water capacity, viz., 61,200 lbs., added to the weight of the locomotive and tender, would give 245.6 tons running a distance of 100 miles, or 24,560 locomotive ton miles.

Basis No. 15—Freight and passenger proportion of total charges to equipment repair accounts Nos. 25, 31, 34, 40 and 43 to total charges to those accounts.

2113 Basis No. 16—Total freight or passenger revenue locomotive mileage to total revenue locomotive mileage of each division or state.

Basis No. 17—The expenses of all exclusively passenger or exclusively freight switching yards should be allocated. Common yards should be divided on the basis of the total freight or passenger switching locomotive mileage to total switching locomotive mileage of each division or state, excluding the mileage of those yards which have been treated as wholly freight or passenger.

Basis No. 18—Total freight or passenger road locomotive mileage to total road locomotive mileage of each division or state.

Note (*) Wherever terminal divisions or districts occur in which no regular trains, either passenger or freight, are run and consequently no revenue passenger or freight train mileage is made, the passenger or freight switching mileage in such districts should be included in the revenue train or local mileage in determining percentages for assigning "common to line" expenses among states.

Under this method ten of the roads, shown on Exhibit 26-A, completed the study, each of the roads applied exactly the same method without variation. The result is in Exhibit 26, and shows a net return on cost of road and equipment on the entire railway operation of 4.03 per cent.; on the passenger traffic 1.45 per cent., and on freight traffic 5.34 per cent.—Exhibits 26 and 26*a* are reproduced at end of this section.

In the Illinois Five Per Cent. Case, thirteen additional roads completed the study and the combined result for the 23 roads is set forth on pages 35 to 38 of Wettling's Exhibit 28. The rate of return on these 23 roads was for their entire operation, 4.2 per cent.; passenger

traffic, 1.57 per cent., and for freight traffic 5.6 per cent. The ratio would be increased to approximately 4.3 per cent. when correction is made in the figures of the Lake Erie & Western, who deducted interest on bonds from operating income by mistake, as pointed out in the corrected tabulation submitted.

The principal roads operating in Illinois and entering St. Louis (some omitted because of the lack of information uniform with the rest) and whose data enter into the composite presentation as for one system in Wettling Exhibits 1 to 26A, inclusive, are the following eleven (691):

Baltimore & Ohio Southwestern
Chicago & Alton
Chicago & Eastern Illinois
Chicago, Burlington & Quincy
Cleveland, Cincinnati, Chicago & St. Louis
Illinois Central
Mobile & Ohio
St. Louis, Iron Mountain Southern
Southern Ry.
Toledo, St. Louis & Western
Vandalia R. R.

2114 Mr. Humburg: From your general knowledge of the condition of the Wabash in the past, for the period of time covered by these statistics, can you say what is your general impression as to what would have been the general results if those figures had been included?

Mr. Wettling: Well, the use of the Wabash figures included in there would have depressed the showing in each case. In other words, the rate of return would have been less, the average rate of return per mile and the net results would make a more disadvantageous showing than here shown. (722)

There is another group of twenty-six Illinois roads operating generally in different parts of the state and whose mileage in Illinois comprises 81.1% of all of the railroad mileage in the state. Data on their behalf was likewise prepared and submitted according to this "1914 study," these data being embraced in Wettling's Exhibit 28, consisting of pages 1 to 39 inclusive. The same tables were introduced before the State Public Utilities Commission of Illinois in the so-called Illinois Five Per Cent. Case, Doc. 2996, as Wettling's Exhibits 1 to 39 inclusive. Said roads are (718):

Atchison, Topeka & Santa Fe
Baltimore & Ohio Southwestern
Chicago & Alton
Chicago & Eastern Illinois
Chicago & Illinois Midland
Chicago & North Western
Chicago, Burlington & Quincy
Chicago Great Western
Chicago, Milwaukee & Gary
Chicago, Milwaukee & St. Paul
Chicago, Rock Island & Pacific
Chicago, Terre Haute & Southeastern
Cleveland, Cincinnati, Chicago & St. Louis
Kankakee & Seneca
Peoria & Eastern
Illinois Central
Illinois Southern
Lake Erie & Western
Minneapolis & St. Louis
Minneapolis, St. Paul & Sault Ste. Marie
Mobile & Ohio
St. Louis, Iron Mountain & Southern
Southern Ry.
Toledo, Peoria & Western
Toledo, St. Louis & Western
Vandalia R. R.

Said Wettling Exhibit 28 differs from Wettling Exhibits 1 to 26A, inclusive, in that it embraces 26 and 23 roads respectively in these various sheets of Exhibit 28, as against the 11 and 10 roads which were covered in Wettling Exhibits 1 to 26-A, inclusive. (718)

Wettling Exhibit 29 was likewise introduced in the Illinois Five Per Cent. Case as his Exhibits 40 to 46, inclusive, in that proceeding.

2115 (*b*) Comparative Study for 1908 to 1914 Inclusive.

Aside from the special study of data for the fiscal year ended June 30, 1914, certain exhibits were presented which have for this purpose simply the comparing of results of operation from year to year, 1908 to 1914, inclusive.

(However the 1914 data as used in this comparison are not prepared according to the special 1914 formula above set forth, but are prepared in the same way as the data for the years preceding, viz., 1908 to 1913, inclusive.)

Mr. Wettling testified further: As heretofore explained, the data were obtained by sending to the various roads blank forms on which, under separate columns, various statistics were required to conform to those theretofore submitted by the carriers to and lodged with the Illinois Railroad and Warehouse Commission and with the Interstate Commerce Commission through their annual reports. Generally these statistics shown throughout these exhibits, excepting as to Wettling Exhibit 26, are the figures taken from those reports. Where they are not exact copies from said annual reports, they are deductions made from these same basic figures contained in these said reports (692-3).

Mr. Wettling testified further: These roads did not all apply the same plan through the years 1908 to 1914 for the division of their revenues and expenses in assigning such revenues and expenses for the State of Illinois as distinguished from the entire system. While they used somewhat different plans of making such apportionment where they differed generally, each individual road, however, excepting one, carried out throughout the period the same method they applied in 1908.

The larger percentage of these roads, about seventy-seven per cent. expressed in mileage, applied the mile haul basis for the apportionment of revenues. That is, each individual waybill for freight was apportioned on the ratio of the mileage performed within Illinois to the total, the intrastate revenues, of course, being assigned in total to Illinois.

As to the five general (accounts of) operating expenses the method adopted by the majority of these roads, both as to number and as to mileage, was to localize or allocate directly to Illinois all
2116 those expenses incurred entirely within Illinois on all divisions which were entirely within the state.

On such division as extended across the state lines, being in part within Illinois and in part extended over into Wisconsin, Iowa, Missouri, Kentucky or Indiana, the division was generally made on the

revenue train mile basis, excepting as to maintenance of way and structures, which is generally made on the road mile basis.

The division of equipment maintenance is made on the mileage performance of the equipment within the states.

Part of these roads, the Chicago & Eastern Illinois, for instance, during the entire period has absolutely equalized its entire revenues and expenses between Illinois and Indiana by using the train mile basis. I mean, equalized the rates. They have used the train mile basis on all their interstate business. The Toledo, St. Louis & Western Railroad followed practically the same theory. The Big Four used the train miles for the first three years and the road miles for the following four years, and, of course, under those conditions, regardless of whether the theory is exactly right or not, but as to each individual year we can hardly claim absolute accuracy for the division as between state and line on these revenues under those circumstances as a whole; but for the comparative purpose they remain the same throughout the period and will reflect the comparison from year to year from 1908 to 1914, inclusive (698).

Wettling Exhibits 8 to 23, inclusive, show clearly the downward tendency due principally to increased cost of operation shown in Wettling Exhibit 9, where comparison is made on basis of expenses per mile of road, comparing 1914 with 1908; operating expenses increased 27.22 per cent. and taxes 51.37 per cent. as against increase of 23.66 per cent, in gross revenue and only 3.82 per cent. increase in net revenue. Notwithstanding enormous expenditures for additions and betterments as shown in Exhibit 25, the rate of return has decreased from 4.93 per cent. in 1910 and 4.74 per cent. in 1909, to 3.98 per cent. in 1914, as shown in Exhibit 10; and the net earnings per mile of line was less in 1914 than in any of the preceding years shown, except only the low year, 1908. While the increase in gross operating revenues, 29.71 per cent., has more than
2117 kept pace with increase in value, 17.66 per cent., as shown in Exhibit 11, the expenses have increased 35.96 per cent. over 1908, much more over 1909—the operating ratio has increased from 74.43 per cent. in 1909 steadily in each year to 80.63 per cent. in 1914, and the net revenue increased only 8.89 per cent.

Wettling Exhibits 12 to 14 show freight and passenger traffic statistics and disclose increases in density, in train and car loading and in revenue per train mile, demonstrating that the roads have practiced economies and put forth strenuous efforts to meet the constantly increasing expense, and reductions in rates, but have been unable to fully compensate therefor, or overcome the added costs.

Wettling Exhibit 15 shows how steadily rising wage scales have incroached on the revenues, and together with taxes, have in large measure counterbalanced the economies produced by greater density and heavier loading of trains and cars. The increased cost of labor alone by reason of increase in wage scales having added an average of $1.029 per train mile and $779.48 per mile of road to the operating expenses of 1914 as compared with 1908.

The effect of these increased costs on the net revenues are graphic-

ally shown in Wettling Exhibit 16 and in the aggregate and per mile of road in Exhibit 17.

Wettling Exhibits 18 and 19 show that the maintenance expenses have also contributed to this result, caused largely by the enforced use of heavier locomotives and equipment, heavier trains and lading and the demands of the public for better and more luxurious equipment and facilities.

Wettling Exhibits 21 and 23 show freight and passenger revenues, costs and train mile statistics for 1908 to 1914, the division between freight and passenger being arbitrarily made by use of the ratios under special study on 10 roads for 1914, and is presented for comparative purposes only.

What is said above relates especially to entire line statistics.
2118 The same relative comparisons are made for Illinois in the same exhibits and in Wettling Exhibits 22 and 24.

Comparisons of operating results between the entire line and that part of these lines within the State of Illinois, as to the eleven St. Louis-Illinois lines, are made generally in Wettling Exhibits 9 to 26-A, and as to the twenty-six Illinois roads, in Exhibit 28, both as to the years 1908 to 1914, inclusive, based on reports heretofore made to Interstate Commerce Commission and the Railroad & Warehouse Commission of Illinois, and as to the year 1914 under special formula for division between entire line and state and between freight and passenger traffic.

The result of these comparisons, 1908-1914, on the eleven St. Louis-Illinois roads is graphically shown in Exhibit 16, which is reproduced at the end of this section.

While it is true that these roads did not all use the same methods for separation of revenues and expenses between state and entire line, yet with the exception of one road, the plan pursued by each was the same throughout the period, and the separation as a whole is on the average dependable as sufficiently accurate for comparative or other practical purposes. This is borne out by the following comparison of the results for 1914 as reported regularly and the results for the 1914 special study:

Net return of these roads for the year ended June 30, 1914, was for eleven St. Louis-Illinois roads, as regularly reported for entire line (Exhibit 10)	3.98%
For Illinois operations	3.31%
For 10 St. Louis-Illinois roads, under special study for entire line (Exhibit 26)	4.03%
For Illinois operations	3.53%
For 26 Illinois roads—as regularly reported for entire line (Exhibit 28, p. 19)	4.14%
For Illinois operations	4.13%
For 23 Illinois roads—under special study for entire line (Exhibit 28, p. 39)	4.20%
For Illinois operations	3.91%

His Exhibit 29, p. 6, shows that the average per cent. of
2119 return on the investment of nine roads treated as one system was for the four years, 1908 to 1911, inclusive, 4.12 per cent., and that the average return for the next four years, viz., 1912 to 1915, inclusive, was only 2.6 per cent., or a decrease of 36.89 per cent. in the second period as compared with the first period; and that, comparing 1915 with 1908, the per cent. of return on the investment decreased 46.9 per cent.

Mr. L. E. WETTLING testified:

The reason for not using the twelve roads used by Mr. Maxwell (Sec. 42 above) was that I did not have the statistics for the other three for the entire time, so as to be able to make the same sort of comparisons. These figures are for the entire line of these nine roads which are named at the foot of the exhibit and include the Wabash entire line figures. The showing is that the average rate of return on the cost of road and equipment for those lines for the years 1908 to 1911, inclusive, on the average for the four years was 4.12 per cent., for the next four years, 1912 to 1915, inclusive, the average rate of return was 2.60 per cent. The rate of return in the first period was the highest for 1910, being 4.31. In the last period the highest rate of return was in 1913, being 3.12. The lowest in the last period was 2.14 in 1915. That includes all roads operating in Illinois that have 25 per cent. or more of their mileage in the state, except three and except also some smaller line, viz., the Illinois Terminal with 100 per cent. excluded, Litchfield & Madison, St. Louis, Troy & Eastern, St. Louis & O'Fallon, and Wabash, Chester & Western. The three lines in Maxwell's Exhibit and not in mine are Chicago, Indiana & Southern, Elgin, Joliet & Eastern and Chicago, Peoria and St. Louis.

(c) Amounts Used as Value of Property as a Basis for Ascertaining Rate of Return. (See also Section 44.)

Concerning the book value of the roads whose composite data were presented by Mr. Wettling, he testified: The net cost of road and equipment is, as reported to the Interstate Commerce Commission, except that a few of the lines have made some deductions for
2120 property not used directly in the operation of the railroad (693).

As to Illinois it was impossible to get the cost of road and equipment because none of the lines have made actual separation of the cost of road and equipment between entire line and state, and where comparisons are made of values, or where deductions are made as to return on value, the figures used are based on the assessor's value (694).

The net amount on which the tax is levied is in 1908 one-fifth of the value found by the assessor. In 1909 and for each year up to and including 1914, the value on which the tax was finally levied was one-third of the assessor's value. I am informed that the assessor's

value of railroads in Illinois approximates seventy per cent. of the actual true value. It was the opinion of some that it would be probably a little less than seventy per cent. But, using that basis, I multiplied such amount by five in 1908 and divided by seventy per cent., thus reaching the full cash value based on the assessor's valuation. Divided by seventy per cent. that gave ten-sevenths, but in 1909 and each of the other years the amount was multiplied by three and then divided by seventy per cent. in order to bring about the 100 per cent. value we figured (695).

Wettling Exhibits 32 and 33 show in detail by roads and for each of the years 1908-1914, the amounts used in the aggregate for all the roads as value based upon the assessors' valuation in Illinois and net cost of road and equipment for entire line for the 26 roads treated in Wettling Exhibit 28, and include also all the roads in Exhibits 1 to 27, covering 11 representative roads operating between St. Louis and points in Illinois.

Wettling Exhibit 32 represents the value as assigned to the Illinois part of the roads.

The aggregate in each of the columns in Exhibit 32 represents the amounts used as the basis of value on these 26 roads for the State of Illinois as used in Exhibit 28, and as to the individual roads, the 11 used in the Exhibits 1 to 26, inclusive, can be determined for this same exhibit.

Wettling Exhibit 33 in the aggregate of each of the col-
2121 umns under the years is the amount used as value designated as net cost of road and equipment for the entire line in the various exhibits heretofore introduced (1353-4).

As a further justification of the values as used in Exhibits 1 to 26 and also as to the 26 roads included in exhibits in the Illinois Case introduced here as Exhibit 28, Mr. Wettling said at p. 1511: I wish to say in that respect, to follow that last remark that has just been volunteered by Mr. Murphy, that I have made a comparison of values based on the mileage, both single track, all track, and also all main tracks. If the value of the roads in Illinois in this case were set up on the basis of the exact ratio of the single-track mileage rather than on the basis of the assessment value and we assume that a mile of track in Illinois had the same ratio of a mile of track on all the rest of the systems of these various roads and that there was no greater proportion of second, third and fourth main track, or yard and siding tracks, in Illinois than there is on any of the rest of these systems, then the value would have been approximately 48½ million dollars less than is shown by the value as derived by using the assessment as a basis.

If we use the value of all tracks, excluding trackage rights, then the value would have been over 50 million dollars more than the value as shown by using the assessment value as a basis.

If we use as a basis of spreading over the entire line and apportioning to Illinois the basis of the main-track mileage, then the values set up in lieu of those found by using the assessment as a basis would have been $705,955,041.85 instead of the value found as based on the assessment value of $599,284,175.58. (1511-12)

(*d*) Wettling Exhibits Summarized.

The mileages for entire line and Illinois are shown in Wettling Exhibit 1. The average mileage operated of these 11 roads in 1914 was for their entire line, 33,916.18, and the mileage in Illinois was 7,003.53, this being over 57 per cent. of the total operated railroad mileage in the state. The mileage of all roads in Illinois, together with system mileage of each and ratio that the Illinois mile-
2122 age is of the total, is shown on page 5 of Wettling Exhibit 29.

Wettling Exhibit 28 shows the mileage for 26 roads on pages 1, 2 and 3; Exhibit 28 is the same as Wettling Exhibits 1 to 39, introduced in Illinois Five Per Cent. Case and here introduced for comparative purposes, i. e., 1914 with previous years.

Wettling Exhibit 29, page 6, shows Illinois and system mileage for nine selected roads, used as representative because of the large per cent. of their total mileage operated in Illinois.

Maxwell's Exhibit 1 shows Illinois and system mileages for 12 selected roads, ratios to total of systems and of total mileage in Illinois. (See Section 45 below.)

There is shown in Wettling Exhibits 2 to 8, inclusive, the operating revenues and expenses, including outside operations, tax accruals, hire of equipment balance and other credits from railway operation, hire of equipment balance and other debits from railway operation and resulting net railway operating income, for each of the 11 St. Louis-Illinois roads for each of the years 1908 to 1914, inclusive. The full detail, by roads and by years, for outside operations and hire of equipment, joint facility rents and other items included, both debit and credit, are shown in supplementary tabulations of 30 pages submitted on request of the interveners.

In entire line statistics, the designation, "Baltimore & Ohio Southwestern," should read, "Baltimore & Ohio R. R. Co."

The aggregates of figures in these Exhibits 2 to 8, inclusive, are used in Exhibits 9 to 24, where are treated revenues, expenses, taxes and the railway operating income.

Wettling Exhibit 9 shows the aggregate operating revenue, expenses, taxes and net railway operating income for the years 1908 to 1914, both inclusive, for comparative purposes, and at the foot makes comparison of the operating revenues, expenses, taxes, etc., and the net railway operating income, 1914 with 1908, per mile of line. This shows that while the operating revenue increased from $10,884.86 in 1908 to $13,459.98 in 1914, being an increase of $2,575.12, or 23.66 per cent., the operating expenses in the
2123 same period increased 27.22 per cent.; the railway tax accruals increased 51.37 per cent. and the net railway operating income increased only 3.82 per cent. The net railway operating income per mile of line was $2,541.06 in 1908 and in 1914 $2,638.08, an increase of only $97.02 as against an increase in total revenues of $2,575.12.

Wettling Exhibit 10 shows the net cost of road and equipment aggregated for these lines and the rate of return on said cost of road and equipment produced by the net railway operating income shown

in Exhibit 9. It will be noted that the return in 1910 was 4.93 per cent. and in 1914, 3.98 per cent. This exhibit also shows the value which these roads would have if the net railway operating income for each of the years were capitalized at 7 per cent., and in the succeeding column the amount of the net cost of road and equipment which failed to earn any return whatever above the 7 per cent. on the values stated. This is also reduced to the net income per mile of line and the values per mile capitalizing the net income at 7 per cent. It will be noted that notwithstanding the large expenditures of these roads for additions and betterments in the past seven years, the values so capitalized produce an average per mile of line for the seven years of only $40,836.37, and in 1914 of only $37,686.94. The entire line figures for Exhibits 9 and 10 are reproduced at the end of this section.

Wettling Exhibit 11 shows the relative increase in net cost of road and equipment, revenues, expenses and net operating income, comparing each year with the year 1908 and showing the increase or decrease as compared thereto. In this connection, special attention is called to the marked increase in expense ratio, the expenses here used covering operating expenses, hire of equipment, debit balance, joint facility rents, tax accruals and other income debits. The operating revenues cover the corresponding credits.

Wettling Exhibits 12 and 13 show general traffic statistics for these roads, and Exhibit 14 shows freight and passenger traffic statistics for the years 1908 to 1914, covering ton miles per mile of road, tons per train mile, per loaded car mile and revenue per ton mile in mills; passenger miles per mile of road, passenger miles per train mile and per car mile, and the revenue per passenger per mile.

2124 This exhibit shows a marked increase in ton miles per mile of road and in both train and car loading of freight.

Said Wettling Exhibits 11 and 14 as to entire line are reproduced at the end of this section.

Wettling Exhibit 15 shows the labor costs and increased costs due to the increase in wage scales for the years 1908 to 1914, increases being calculated on the basis of the 1908 average rate of pay. This exhibit shows an additional cost to the carriers in labor compensation, and means that if the number of days of service had been performed in each of the years shown at the rate of $2.15 per day, which was the average rate in 1908, instead of the average rates as actually paid in the various years since 1909, then these roads would have saved during the years 1910 to 1914, inclusive, $83,887,496.33. Of this increased cost, $26,436,881.28 was paid out in the year 1914 alone, and meant an added cost per mile of road operated of $779.48.

Wettling Exhibit 16 is a graphic showing the appropriation of each dollar of operating revenue paid to the railroads by the public, 1908 to 1914, to labor, taxes, all other expenses, and the balance available for interest, dividends and surplus. This shows that in 1908, although conceded one of the poorest years in the history of the railroads, there remained 23.07 cents out of each dollar for dividends, interest and surplus. The year 1914 was still very much lower, there remaining in that year only 19.37 cents out of each

dollar of revenue. Compared with the year 1909, when there remained a balance available out of each dollar of revenue 25.57 cents, it shows a decrease of 6.2 cents, or 41 per cent. Wettling Exhibit 17 shows the same general information in the aggregate and per mile of road as is shown in the graphic Wettling Exhibit 16 per dollar of revenue.

Said Wettling Exhibits 15 and 17 as to entire line are herewith reproduced at the end of this section.

Wettling Exhibits 18 and 19 treat with the maintenance of way and structure and maintenance of equipment costs, being reduced to the cost per mile of line operated single track, per mile of line operated all track, and showing also the per cent. which said maintenance costs are of the operating revenue for each of the
2125 years. This shows for maintenance of way and structures an increase in cost per mile, single track, also a slight increase in cost per mile of all tracks, but a decrease from 14.67 per cent. of the operating revenue in 1908 to 13.22 per cent. in the year 1914. It also shows a very material increase in the cost of maintenance of equipment under each of the three bases and a material increase under each basis for the aggregate of all maintenance. These same maintenance costs are again shown in Exhibit 19 and here divided between freight and passenger by the application of the ratio found in the year 1914 under so-called Method B, and the amounts so apportioned to freight and passenger reduced to the cost per car mile; it will be noted here that the increases and fluctuations are not so great ratably as shown in the preceding exhibit, demonstrating, too, that the greater traffic density has brought about, in respect of maintenance, higher costs rather than economies.

Wettling Exhibits 21 and 23 show freight and passenger revenues, costs and train mile statistics for each of the years 1908 to 1914, inclusive, division between freight and passenger expenses being arbitrarily made on the ratios found under special study for the year 1914 as shown in Exhibit 26.

Wettling Exhibit 24 shows the requirements in the next seven years for refunding or re-financing of maturing obligations now outstanding.

Wettling Exhibit 25 shows the expenditures of these 11 roads for additions and betterments, construction and equipment during the seven years for their entire line of $474,766,813.24.

Wettling Exhibit 26 shows the division between freight and passenger operating revenues, expenses and income and the resulting net returns for ten of the roads shown in the preceding exhibits as the result of a special study made for the year ended June 30, 1914.

Wettling Exhibit 26-A shows the mileage and roads included in Exhibit 26, the value of property in use and in a general way a description of the bases applied, the bases and manner of apportionment or assignment of various items being shown in full detail in the formula adopted and introduced as Wettling Exhibit 27.
2126 This exhibit shows for the entire line that the net return on the net cost of road and equipment for the ten roads from whom data were received, making divisions under the formula, was

4.03 per cent., and being 5.34 per cent. as to the freight and 1.45 per cent. upon the passenger traffic. The exhibit also discloses that the value per mile of line total, on which the net operating income of these roads was equivalent to 7 per cent., was only $33,511.96 per mile, whereas the average value per mile of road as shown by the net cost of road and equipment here used was $58,255.94 per mile, leaving a value of $24,743.98 per mile earning no return whatever.

Wettling Exhibit 28 is a volume of 40 pages of exhibits introduced in the Illinois Five Per Cent. Case (before the State Public Utilities Commission of Illinois) and was here produced for comparative purposes only. The exhibits generally disclose about the same general information as is shown in Exhibits 1 to 27 here introduced, and pertaining to the 11 representative roads presented in this case.

Wettling Exhibit 29 is a volume of 7 exhibits used in the Illinois Five Per Cent. Case, designated there as his Exhibits 40 to 46, both inclusive, and in this case as Wettling Exhibit 29, pages 1 to 7, inclusive. This exhibit, except page 6, also treats with the 26 roads generally used in Exhibit 28. Page 1 shows the revenue and expenses per equated traffic unit. This shows the revenue per equated traffic unit for these 26 roads, entire line, from 1908 to 1914, as having fluctuated between 7.901 mills, the lowest, and 8.11 mills, the highest, the average for the period being 7.988 mills. The expenses have gradually increased, although with some fluctuations up and down during the period; in 1908 the expenses per equated traffic unit were 5.64 mills, and in 1914, 6.228 mills, an increase of 4.43 per cent., as against an increase, making comparison with the same years, in the revenue of only .22 per cent.

Pages 2, 3 and 4 of Wettling Exhibit 29 make comparison of operating revenues, expenses and income for the fiscal year ended June 30, 1915, with the year 1914, for the months of July and August, 1915, with the months of July and August, 1914. Page 5 shows certain mileage statistics and ratios heretofore referred to.

Page 6 shows the operating revenues, expenses and net
2127 operating income for the entire line of nine representative roads in Illinois whose aggregate mileage operated within the State of Illinois in 1914 was 42.96 per cent. of the entire line mileage of these nine roads. This table is set up to show the operating revenues, expenses and net railway operating income and the general trend from 1908 to 1915, inclusive, and separated into two four-year periods for comparative purposes.

Page 7 shows operating ratio for 26 roads in the aggregate, both for Illinois and entire line, for the years 1908 to 1914, excluding taxes, hire of equipment, joint facility rents, etc.

Concerning the proposition that the locomotives now in use are heavier and more expensive than those used eight years ago, Wettling Exhibit 30 was introduced, and he testified with respect to said exhibit: The locomotives owned or leased in service June 30, 1906, and June 30, 1914, in the aggregate for fifteen roads or systems that are named at the foot of the exhibit, viz: Atchison, Topeka & Santa Fe, Chicago & Alton, Chicago & North Western, Chicago, Burlington

& Quincy, Cleveland, Cincinnati, Chicago & St. Louis, Chicago Great Western, Chicago, Milwaukee & St. Paul, Chicago, Rock Island & Pacific, Illinois Central, Lake Erie & Western, Minneapolis & St. Louis, Minneapolis, St. Paul & Sault Ste. Marie (Wisc. Cent.), Peoria & Eastern, St. Louis, Iron Mountain & Southern and Toledo, Peoria & Western.

It was not possible to get this information for all of the roads. I have these fifteen and considered them typical. The exhibit was prepared under my direct supervision largely in the Western Passenger Fares Case, I. & S. Docket 600, 37 I. C. C., 1. The exhibit shows generally the much heavier locomotives in service in 1914 than were in service on these various lines in 1906.

It gives the total number in service on June 30, 1906, as 9,816 locomotives, and in 1914 as 13,479.

The weight of the locomotives assigned to the passenger service in 1906 was 209,524 tons, to the freight service 611,933 tons, and to the switching service 109,292 tons.

In 1914 the weight in tons of the locomotives in passenger service was 374,789 tons, in the freight service 1,093,077 tons, and in switching service 185,247 tons.

2128 The average increase was approximately 80 per cent. in freight and passenger and 70 per cent. in switching locomotive weights. (729-730)

That the passenger cars now in general use on lines operating in Illinois are much more expensive than those used ten years ago and accommodate about the same number of passengers, is shown by Wettling Exhibit 31, concerning which he testified. This exhibit shows the passenger train equipment of these same fifteen roads for whom were shown the locomotive equipment. It shows the relative amount of equipment, number, total, original cost, average weight in pounds, average original cost per car on June 30, 1906 and June 30, 1914, of the equipment of all of these fifteen roads in the passenger service by classes and subdivided further as between wood, steel underframe and steel cars.

It shows that the total number of cars in the passenger service on June 30, 1906, was 7,269, of which 50 cars were steel underframe cars, there being (then) no steel cars whatever in service on these roads.

As against this there were in the service for 1914, 10,334 cars, 7,302 of which were wood, 1,346 steel underframes and 1,686 all steel cars. The total cost of all equipment here designated on June 30, 1906, was $41,678,503, and in 1914 the passenger train equipment for cars, exclusive, of course, of locomotives, cost $77,782,042. Of this $44,410,348 represented the cost of the wood cars, $11,989,000 the cost of the steel underframe cars and $21,382,000 the cost of the all steel cars.

The average cost of all the cars in 1906 was $5,733.73 per car, and the average cost of the steel underframe cars was $7,914.00.

On June 30, 1914, the average cost of all cars was $7,526.81, the average cost of the wood cars was $6,081.94, being as to that partic-

ular class an increase of $364 greater value than in 1906. The steel underframe cars cost on an average of $8,907.00 each (in 1914) and the all steel cars cost on an average $12,682.50 each.

The average weight of all cars in 1906 was 71,311 pounds, on June 30, 1914, the average weight of all the cars was 85,356 pounds each, of the wood cars 73,654 pounds, of the steel underframe cars 100,999 pounds, and of the all steel cars 123,557 pounds each. (731-732)

(Here follow Wettling Exhibits, marked pages 2129-2137.)

WETTLING EXHIBITS 9 AND 10, COMBINED FOR ENTIRE LINES.

(A) AGGREGATE OF OPERATING REVENUE, EXPENSES AND RAILWAY OPERATING INCOME—1908-1914. (FROM WETTLING EXHIBIT 9.)

ELEVEN ROADS.

ENTIRE LINE.

YEAR	Average Mileage Operated	Total Revenue	Total Expense	Net Railway Operating Revenue	Railway Tax Accruals	Railway Operating Income	Hire of Equipment, Credit Balance and Other Credit from Railway Operations	Gross Railway Operating Income	Hire of Equipment, Debit Balance and Other Debit from Railway Operations	Net Railway Operating Income
1908	32,336.77	$351,981,095.43	$255,286,073.36	$ 96,695,022.07	$11,500,631.38	$ 85,194,390.69	$4,204,185.98	$ 89,398,576.67	$ 7,228,748.12	$ 82,169,828.55
1909	32,088.38	353,254,056.35	245,274,801.43	107,979,254.92	11,772,342.60	96,206,912.32	4,265,727.48	100,472,639.80	9,068,816.91	91,403,822.89
1910	32,654.58	401,850,557.77	284,282,458.47	117,568,099.30	13,319,702.53	104,248,396.77	4,976,632.70	109,225,029.47	8,988,000.18	100,237,029.29
1911	33,127.38	414,154,036.85	294,295,614.20	119,858,422.65	14,103,565.49	105,754,857.16	5,310,723.63	111,065,580.79	10,400,057.86	100,665,522.93
1912	33,670.26	421,797,551.49	306,416,327.41	115,381,224.08	15,456,841.68	99,924,382.40	4,803,980.91	104,728,363.31	9,721,874.65	95,006,488.66
1913	33,681.05	461,217,346.07	336,995,166.84	124,222,179.23	16,365,680.58	107,856,498.65	5,482,582.46	113,339,081.14	10,614,671.34	102,724,409.80
1914	33,916.18	456,511,249.52	340,638,202.37	115,873,047.15	18,258,140.36	97,614,906.79	5,500,071.48	103,114,978.27	13,641,319.64	89,473,658.63
Comparison of Operating Results per Mile of Line Operated: 1908		10,884.86	7,894.61	2,990.25	355.65	2,634.60	130.01	2,764.61	223.55	2,541.06
Comparison of Operating Results per Mile of Line Operated: 1914		13,459.98	10,043.53	3,416.45	538.33	2,878.12	162.17	3,040.29	402.21	2,638.09
Increase Over 1908		2,575.12	2,148.92	426.20	182.68	243.52	32.16	275.68	178.66	97.03
Per Cent of Increase		23.66%	27.22%	14.25%	51.37%	9.24%	24.74%	9.97%	79.92%	3.82%

(B) COST OF ROAD AND EQUIPMENT FOR ENTIRE LINE, AVERAGE MILEAGE OPERATED, NET OPERATING INCOME AND RATIOS, 1908-1914. (FROM WETTLING EXHIBIT 10.)

ELEVEN ROADS.

ENTIRE LINE.

YEAR	Net Cost of Road and Equipment	Average Miles Operated	Net Operating Income	Percent Return on Cost Road and Equipment	Value on Which Net Operating Income is Equivalent to 7 Percent	Balance of Value Earning no Return	Net Operating Income per Mile Operated	Equivalent to 7 Percent on Value per Mile
1908	$ 1,910,111,504.03	32,336.77	$ 82,169,828.55	4.30%	$1,173,854,693.57	$736,256,810.46	$2,541.06	$36,300.93
1909	1,926,660,460.73	32,088.38	91,403,822.89	4.74	1,305,768,898.43	620,891,562.30	2,848.50	40,692.89
1910	2,032,754,994.35	32,654.58	100,237,029.29	4.93	1,431,957,561.29	600,797,433.06	3,069.62	43,851.66
1911	2,096,529,388.19	33,127.38	100,665,522.93	4.80	1,438,078,899.00	658,450,489.19	3,038.74	43,410.58
1912	2,163,777,361.69	33,670.26	95,006,488.66	4.39	1,357,235,552.29	806,541,809.40	2,821.67	40,309.63
1913	2,197,973,445.54	33,681.05	102,724,409.80	4.67	1,467,491,568.57	730,481,876.97	3,049.91	43,570.24
1914	2,247,342,402.80	33,916.18	89,473,658.63	3.98	1,278,195,123.29	969,147,279.60	2,638.08	37,686.94
Total and Average	$14,575,149,557.42	231,474.60	$661,680,760.75	4.54%	$9,452,582,296.44	$5,122,567,260.98	$2,858.55	$40,836.37

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WETTLING EXHIBITS 11 AND 14, COMBINED FOR ENTIRE LINE DATA.

(a) COMPARATIVE INCREASE, 1908 TO 1914, COST OF ROAD AND EQUIPMENT FOR SYSTEM, TOTAL OPERATING REVENUE, EXPENSES AND INCOME. ELEVEN ROADS. ENTIRE LINE.

YEAR	Net Cost of Road and Equipment	Increase over 1908	Total Operating Revenue and Income	Ratio to Cost of Road and Equip.	Increase over 1908	*Total Operating Expenses	Ratio to Revenue	Increase over 1908	Net Operating Income	Increase over 1908
1908	$1,910,111,504.03		$356,185,281.41	18.65%		$274,015,452.86	76.93%		$ 82,169,828.55	
1909	1,926,660,460.73	.87%	357,519,783.83	18.56	.37%	266,115,960.94	74.43	Decr.2.88%	91,403,822.89	11.24%
1910	2,032,754,994.35	6.42	406,827,190.47	20.01	14.22	306,590,161.18	75.36	11.89	100,237,029.29	21.99
1911	2,096,529,388.19	9.76	419,464,760.48	20.01	17.77	318,799,237.55	76.00	16.34	100,665,522.93	22.51
1912	2,163,777,361.69	13.28	426,601,532.40	19.72	19.77	331,595,043.74	77.73	21.01	95,006,488.66	15.62
1913	2,197,973,445.54	15.07	466,699,928.56	21.23	31.03	363,975,518.76	77.99	32.83	102,724,409.80	25.01
1914	2,247,342,402.89	17.66	462,011,321.00	20.56	29.71	372,537,662.37	80.63	35.96	89,473,658.63	8.89

(b) FREIGHT AND PASSENGER TRAFFIC STATISTICS, 1908-1914—From Wettling Exhibit 14. ELEVEN ROADS. ENTIRE LINE.

YEAR	FREIGHT					PASSENGER				
	Ton Miles Per Mile Road	Increase over 1908	Tons Per Train Mile	Tons Per Loaded Car Mile	Revenue Per Ton Per Mile Mills	Passenger Miles Per Mile Road	Increase over 1908	Passenger Per Train Mile	Passenger Per Passenger Car Mile	Revenue Per Passenger Per Mile Cents
1908	1,129,130		350	19.12	6.60	124,343		49.10	14.42	1.939
1909	1,130,463	0.12%	360	18.63	6.64	125,817	1.19%	49.68	14.34	1.850
1910	1,299,259	15.07	378	19.06	6.55	135,874	9.27	50.95	14.35	1.946
1911	1,273,549	12.79	380	18.93	6.71	140,312	12.84	52.16	14.56	1.970
1912	1,299,492	15.09	413	19.36	6.66	136,397	9.69	50.14	13.97	1.983
1913	1,486,639	31.66	455	20.48	6.46	141,094	13.47	51.17	14.09	1.997
1914	1,440,852	27.61	457	20.61	6.49	145,174	16.75	51.64	14.21	1.965

*Includes taxes, hire of equipment balance, joint facility rents and other debits from railway operation.

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WETTLING EXHIBITS 15 AND 17 COMBINED FOR ENTIRE LINE DATA.

(a) LABOR COST AND INCREASE DUE TO INCREASE IN WAGE SCALES, 1908-1914. (From WETTLING EXHIBIT 15.)
ELEVEN ROADS—ENTIRE LINE.

YEARS	Days	Total Compensation	Average Per Day	Increase over 1908	Amount of Increase	Total Compensation Per Mile of Road	Total Increase Per Mile of Road	Labor Cost Per Train Mile	Increased Per Mile Due to Increased Wage Scale
1908	72,370,060	$155,798,544.01	$2.15			$4,818.00		$ .854	
1909	67,263,382	144,788,544.91	2.15			4,512.18	Decr. $ 305.82	.812	
1910	75,631,092	168,991,696.55	2.23	3.72%	$ 6,050,487.36	5,175.13	357.13	.864	$185.29
1911	76,895,361	178,723,604.12	2.32	7.91	13,072,211.37	5,395.04	577.04	.909	394.60
1912	80,124,214	188,056,912.44	2.35	9.30	16,024,842.80	5,585.25	767.25	.970	475.93
1913	85,781,052	206,595,969.49	2.41	12.09	22,303,073.52	6,133.89	1,315.89	1.037	662.18
1914	82,615,254	204,376,685.53	2.47	14.88	26,436,881.28	6,025.93	1,207.93	1.029	779.48
Total and Average	540,680,415	$1,247,331,957.05	$2.31	7.44%	$83,887,496.33	$5,388.63	$570.63	$ .928	$362.40

(b) OPERATING REVENUES, LABOR, TAXES AND OTHER EXPENSES AND BALANCE AVAILABLE FOR INTEREST DIVIDENDS AND SURPLUS, 1908-1914. (From WETTLING EXHIBIT 17.)
ELEVEN ROADS—ENTIRE LINE.

	Total Amounts					Amounts per Mile of Road				
YEAR	Gross Operating Revenue	Labor	Railway Tax Accruals	All Other Expense	Bal. Available for Int., Div. and Surplus	Gross Oper. Revenue	Labor	Railway Tax Accruals	All Other Expense	Bal. Available for Int., Div. and Surplus
1908	$356,185,281.41	$155,798,544.01	$11,500,631.38	$106,716,277.47	$82,169,828.55	$11,014.87	$4,818.00	$355.65	$3,300.16	$2,541.06
1909	357,519,783.83	144,788,544.91	11,772,342.60	109,555,073.43	91,403,822.89	11,141.72	4,512.18	366.87	3,414.17	2,848.50
1910	406,827,190.47	168,991,696.55	13,319,702.53	124,278,762.10	100,237,029.29	12,458.50	5,175.13	407.88	3,805.87	3,069.62
1911	419,464,760.48	178,723,604.12	14,103,565.49	125,972,067.94	100,665,522.93	12,662.18	5,395.04	425.74	3,802.66	3,038.74
1912	426,601,532.40	188,056,912.44	15,456,841.68	128,081,289.62	95,006,488.66	12,669.98	5,585.25	459.07	3,803.99	2,821.67
1913	466,699,928.56	206,595,969.49	16,365,680.58	141,013,868.69	102,724,409.80	13,856.45	6,133.89	485.90	4,186.74	3,049.92
1914	462,011,321.00	204,376,685.53	18,258,140.36	149,902,836.48	89,473,658.63	13,622.15	6,025.94	538.33	4,419.80	2,638.08

WETTLING EXHIBIT 26:

DIVISION BETWEEN FREIGHT AND PASSENGER OF OPERATING REVENUES, EXPENSES AND INCOME VALUE AND NET RETURNS—TOTALS AND PER MILE OF LINE, 10 ROADS FOR YEAR ENDED JUNE 30th, 1914.

	Entire Line—Method "A"			Illinois—Method "A"			Illinois—Method "B"	
	Freight	Passenger	Total	Freight	Passenger	Total	Freight	Passenger
Operating Revenue	$ 252,295,981.83	$ 101,838,854.21	$ 354,134,836.04	$ 75,243,761.64	$ 27,084,413.04	$ 102,328,174.68	$ 75,250,702.70	$ 27,077,471.98
Outside Operations—Revenue	1,077,451.95	2,206,811.42	3,284,263.37	187,363.70	503,946.72	691,310.42	187,363.70	503,946.72
Total Revenue	253,373,433.78	104,045,665.63	357,419,099.41	75,431,125.34	27,588,359.76	103,019,485.10	75,438,066.40	27,581,418.70
Operating Expenses	176,242,551.40	86,289,977.31	262,532,528.71	56,929,486.58	23,852,248.58	80,781,735.16	58,024,545.01	22,757,190.15
Outside Operating Expenses	965,893.09	2,578,933.29	3,544,826.38	130,144.43	595,162.29	725,306.72	130,144.43	595,162.29
Total Expenses	177,208,444.49	88,868,910.60	266,077,355.09	57,059,631.01	24,447,410.87	81,507,041.88	58,154,689.44	23,352,352.44
Net Ry. Operating Revenue	76,164,989.29	15,176,755.03	91,341,744.32	18,371,494.33	3,140,948.89	21,512,443.22	17,283,376.96	4,229,066.26
Railway Tax Accruals	9,614,008.37	5,417,686.30	15,031,674.67	2,931,986.66	1,415,967.11	4,347,953.77	2,984,306.20	1,363,647.57
Railway Operating Income	66,550,980.92	9,759,068.73	76,310,069.65	15,439,507.67	1,724,981.78	17,164,489.45	14,299,070.76	2,865,418.69
Hire of Equipment—Credit Balance	162,652.19	205,790.38	368,442.57	130,875.72	105,126.46	236,002.18	131,324.19	104,677.99
Other Income Credit from Railway Operations	2,714,167.98	1,207,970.75	3,922,138.73	1,201,406.74	391,227.46	1,592,634.20	1,220,858.78	371,775.42
Total Additions	2,876,820.17	1,413,761.13	4,290,581.30	1,332,282.46	496,353.92	1,828,636.38	1,352,182.97	476,453.41
Gross Railway Operating Income	69,427,801.09	11,172,849.86	80,600,650.95	16,771,790.13	2,221,335.70	18,993,125.83	15,651,253.75	3,341,872.10
Miscellaneous Taxes	2,816.65	1,966.55	4,783.20					
Hire of Equipment—Debit Balance	4,412,791.09	154,443.28	4,567,234.37	1,374,795.33	72,653.23	1,447,448.56	1,374,036.89	73,411.67
Other Income Debit from Railway Operations	4,202,700.35	2,594,072.19	6,796,772.54	1,156,686.11	726,796.97	1,883,483.08	1,190,195.25	693,287.83
Total Deductions	8,618,308.09	2,750,482.02	11,368,790.11	2,531,481.44	799,450.20	3,330,931.64	2,564,232.14	766,699.50
Net Railway Operating Income	$60,809,493.00	$8,422,367.84	$69,231,860.84	$14,240,308.69	$1,421,885.50	$15,662,194.19	$13,087,021.59	$2,575,172.60
Average Miles Operated	29,512.64	29,512.64	29,512.64	6,620.88	6,620.88	6,620.88	6,620.88	6,620.88
Net Ry. Operating Income per Mile of Road	$ 2,060.46	$ 285.38	$ 2,345.84	$ 2,150.82	$ 214.76	$ 2,365.58	$ 1,976.63	$ 388.95
Assessed Valuation of Road and Equipment*	$1,138,801,541.61	$ 580,485,255.42	$1,719,286,707.03	$ 311,817,306.45	$ 131,404,037.84	$ 443,221,344.29	$ 317,963,900.28	$ 125,257,444.01
Percent Return Net Railway Operating Income on Assessed Value	5.34	1.45	4.03	4.57	1.08	3.53	4.12	2.06
Value on which Net Railway Operating Income equals 7 Percent	$ 868,707,042.86	$ 120,319,540.57	$ 989,026,583.43	$ 203,432,981.29	$ 20,312,650.00	$ 223,745,631.29	$ 186,957,451.43	$ 36,788,179.86
Balance of Value Earning no Return	270,094,498.75	460,165,714.85	730,260,213.60	108,384,325.16	111,091,387.84	219,475,713.00	131,006,448.85	88,469,264.15
Assessed Value of Road and Equipment per Mile of Road*	38,585.91	19,669.03	58,255.94	47,096.05	19,846.92	66,942.97	48,024.42	18,918.55
Value on which Net Railway Operating Income equals 7 Percent	29,435.03	4,076.88	33,511.96	30,725.97	3,067.97	33,793.94	28,237.55	5,556.39
Balance of Value Earning no Return	9,151.83	15,592.15	24,743.98	16,370.08	16,778.95	33,149.03	19,786.87	13,362.16

*Value used for Entire Line is Net Cost of Road and Equipment.

Note. Name of Roads, Mileage and basis of divisions are shown on Exhibit 26-A.

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WETTLING EXHIBIT 26-A.—DIVISION BETWEEN FREIGHT AND PASSENGER FOR THE YEAR ENDED JUNE 30TH, 1914. ROADS, MILEAGE, METHODS AND ADJUSTMENTS. (10 ROADS.)

ROADS AND MILEAGE INCLUDED IN EXHIBIT No. 26.

Name of Road	Illinois	Entire Line
Chicago & Alton	751 68	1,015.35
Chicago & Eastern Illinois	570 40	1,123 22
Chicago, Burlington & Quincy	1,672 18	8,819 41
Cleveland, Cincinnati, Chicago & St. Louis	588 50	2,046 42
Illinois Central	2,024 29	4,561 65
Mobile & Ohio	158 83	933 33
St. Louis, Iron Mountain & Southern	218 34	3,211 58
Southern Ry	157 11	6,548 27
Toledo, St. Louis & Western	179 49	450 58
Vandalia R. R.	299 06	862 55
Totals, 10 Roads	6,620 88	29,512 64
Baltimore & Ohio Southwestern	382 65	4,403 54
Totals, 11 Roads	7,003 53	33,916 18
Baltimore & Ohio Southwestern—Percent of Total.	5 46%	12 98%

Property Values:

For Entire Line.—The value used is the Net Cost of Road and Equipment as reported to the Interstate Commerce Commission on page 37 of Annual Report, after deducting Reserve for Depreciation.

For Illinois.—In the absence of data showing the actual or book value of carriers investments in Illinois there was used in lieu thereof the Assessor's cash value of railroad property. This value was determined by multiplying the assessment valuation on which taxes were paid by five for 1908 and three for each of the years 1909 to 1914, inclusive, and dividing the product by 70 percent to state the Assessor's cash value—it being assumed for the present purposes that such property was assessed at what the Assessor's considered to be 70 percent of its fair cash value.

SPECIAL STUDY MADE BY CARRIERS FOR THE YEAR ENDED JUNE 30, 1914, IN ORDER TO SEGREGATE RESULTS AS BETWEEN FREIGHT AND PASSENGER

Revenues:

Revenues were allocated by carriers to Freight and Passenger respectively, as far as possible. Common items were distributed between Freight and Passenger in the ratio that Freight and Passenger Operating Expenses, respectively, were to the total Operating Expenses.

Expenses:

Operating Expenses were allocated as far as possible to Freight and Passenger Service, both for the Entire Line and Illinois. Under Method A, certain common expenses were divided on Revenue Train Mile basis, and under Method B, such common expenses were distributed on a Locomotive Ton Mile Basis. Method A was stated for the Entire Line and Illinois, and Method B for Illinois only

Taxes, Income Credits and Income Debits:

The above were allocated as far as possible to Freight and Passenger Service and when this was not practicable, the items were divided as between Freight and Passenger Service in the ratio of Freight and Passenger Operating Expenses to the total Operating Expenses.

Adjustment:

There was added to Passenger Operating Expenses and deducted from Freight Operating Expenses, 2% of Freight Operating Expenses of each carrier in order to make allowance for the service performed by Freight for Passenger Account in excess of that performed by Passenger for Freight Account.

Value:

The division of Cost of Road and Equipment for the Entire Line and the Assessor's cash value for Illinois were made on the basis of the ratio of Freight and Passenger Operating Expenses to the total Operating Expenses.

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WETTLING EXHIBIT 28.

PAGE 35. OPERATING RESULTS—FREIGHT AND PASSENGER FOR YEAR ENDED JUNE 30, 1914.

Twenty-three Roads.

ENTIRE LINE—METHOD "A."

	Total	Freight	Percent of Total	Passenger	Percent of Total	Ratio of Expenses to Revenue			Ratio of Net Operating Income to Cost of Road and Equipment		
						Total	Freight	Passenger	Total	Freight	Passenger
Gross Operating Revenue	$755,910,618.59	$527,779,692.86	69.82%	$228,130,925.73	30.18%						
Total Operating Expenses	540,091,163.19	349,923,702.83	64.79	190,167,460.36	35.21						
Hire of Equipment and Other Inc. Dr. from Ry. Oper	19,572,247.58	14,972,055.74	76.50	4,600,191.84	23.50						
Taxes	33,664,190.69	21,438,772.34	63.68	12,225,418.35	36.32						
Total Expenses	$593,327,601.46	$386,334,530.91	65.11	$206,993,070.55	34.89	78.49%	73.20%	90.73%			
Net Railway Operating Income	162,583,017.13	141,445,161.95	87.00	21,137,855.18	13.00				4.20%	5.60%	1.57%
Net Cost of Road and Equipment	3,869,665,903.75	2,526,078,364.35	65.28	1,343,587,539.40	34.72						

ILLINOIS—METHOD "A."

Gross Operating Revenue	$164,525,580.80	$117,332,658.41	71.32%	$ 47,192,922.39	28.68%						
Total Operating Expenses	126,498,006.68	85,246,673.19	67.39	41,251,333.49	32.61						
Hire of Equipment and Other Inc. Dr. from Ry. Oper	5,204,719.39	3,997,279.09	76.80	1,207,440.30	23.20						
Taxes	6,297,657.58	4,118,177.68	65.39	2,179,479.90	34.61						
Total Expenses	$138,000,383.65	$ 93,362,129.96	67.65	$ 44,638,253.69	32.35	83.88%	79.57%	94.59%			
Net Railway Operating Income	26,525,197.15	23,970,528.45	90.37	2,554,668.70	9.63				3.91%	5.24%	1.16%
Assessed Value of Road and Equipment	677,548,649.58	457,316,393.08	67.50	220,232,256.50	32.50						

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ILLINOIS—METHOD "B."

Gross Operating Revenue	$164,525,580.80	$117,339,083.10	71.32%	$ 47,186,497.70	28.68%							
Total Operating Expenses	126,498,006.68	86,407,386.66	68.31	40,090,620.02	31.69							
Hire of Equipment and Other Inc. Dr. from Ry. Oper	5,204,719.39	4,029,010.97	77.41	1,175,708.42	22.59							
Taxes	6,297,657.58	4,184,421.54	66.44	2,113,236.04	33.56							
Total Expenses	$138,000,383.65	$ 94,620,819.17	68.57	$ 43,379,564.48	31.43	83.88%	80.64%	91.93%				
Net Railway Operating Income	26,525,197.15	22,718,263.93	85.65	3,806,933.22	14.35				3.91%	4.89%	1.79%	
Assessed Value of Road and Equipment	677,548,649.58	464,861,914.35	68.61	212,686,735.23	31.39							

Note.—Name of roads, mileage and basis of divisions are shown on Exhibit 38. (Exhibit 28, page 38.)

WETTLING EXHIBIT 28, PAGE 38.

DIVISION BETWEEN FREIGHT AND PASSENGER FOR THE YEAR ENDED JUNE 30th, 1914, ROADS, MILEAGE, METHODS AND ADJUSTMENTS.

ROADS AND MILEAGE INCLUDED IN EXHIBITS Nos. 35-36-37.

Name of Road	Illinois	Entire Line
Atchison, Topeaka & Santa Fe	282.36	10,746.48
Chicago & Alton	751.68	1,015.35
Chicago & Eastern Illinois	570.40	1,123.22
Chicago & North Western	795.38	7,993.83
Chicago, Burlington & Quincy	1,672.18	8,819.41
Chicago, Great Western	153.05	1,411.57
Chicago, Milwaukee & Gary	107.50	107.50
Chicago, Milwaukee & St. Paul	413.39	9,382.14
Chicago, Rock Island & Pacific	364.83	7,092.80
Chicago, Terre Haute & Southeastern	114.24	361.70
Cleveland, Cincinnati, Chicago & St. Louis	588.50	2,046.42
Kankakee & Seneca	42.50	42.50
Peoria & Eastern	61.42	168.96
Illinois Central	2,024.29	4,561.65
Illinois Southern	113.24	133.41
Lake Erie & Western	119.00	872.00
Minneapolis & St. Louis	89.20	1,537.41
Mobile & Ohio	158.83	933.33
St. Louis, Iron Mountain & Southern	218.34	3,211.58
Southern Railway	157.11	6,548.27
Toledo, Peoria & Western	230.40	230.40
Toledo, St. Louis & Western	179.49	450.58
Vandalia R. R	300.06	802.83
Totals—23 Roads	9,507.39	69,593.34
Baltimore & Ohio Southwestern	382.65	4,403.54
Chicago & Illinois Midland	24.48	24.48
Minneapolis, St. Paul & Sault Ste. Marie	48.72	1,020.77
Totals—3 Roads	455.85	5,448.79
Totals—26 Roads	9,963.24	75,042.13
Baltimore & Ohio Southwestern, Chicago & Illinois Midland, Minneapolis, St. Paul & Sault Ste. Marie —Percent of Total	4.575%	7.261%

Property Values:

For Entire Line.—This includes the property investment on lines owned or controlled and operated by reporting carriers, also the property investment on mileage owned or controlled and leased, the income from which is included in the account "Income from Lease of Road." "Reserve for Depreciation" is deducted from this total.

For Illinois.—In the absence of data showing the actual or book values of carriers' investments in Illinois there was used in lieu thereof the Assessors' full value of Railroad Property. This value was determined by multiplying the assessment valuation on which taxes were paid by five for 1908 and three for each of the years 1909 to 1914, inclusive, and dividing the product by 70 per cent to state the assessors' full value—it being assumed for the present purposes that such property was assessed at what the assessors considered to be 70 per cent of its fair cash value.

SPECIAL STUDY MADE BY CARRIERS FOR THE YEAR ENDED JUNE 30, 1914, IN ORDER TO SEGREGATE RESULTS AS BETWEEN FREIGHT AND PASSENGER.

Revenues:

Revenues were allocated by carriers to Freight and Passenger respectively, as far as possible. Common items were distributed between Freight and Passenger in the ratio that Freight and Passenger Operating Expenses, respectively were to the total Operating Expenses.

Expenses:

Operating Expenses were allocated as far as possible to Freight and Passenger. Under Method A, certain common expenses were divided on a **Revenue Train Mile Basis**, and under Method B, such common expenses were distributed on a **Locomotive Ton Mile Basis**, except as to General Expenses which were divided on the basis of the assigned charges to all previous accounts.

Taxes, Income Credits and Income Debits:

The above were allocated as far as possible to Freight and Passenger and when this was not practicable, the items were divided between Freight and Passenger in the ratio of Freight and Passenger Operating Expenses to the total Operating Expenses.

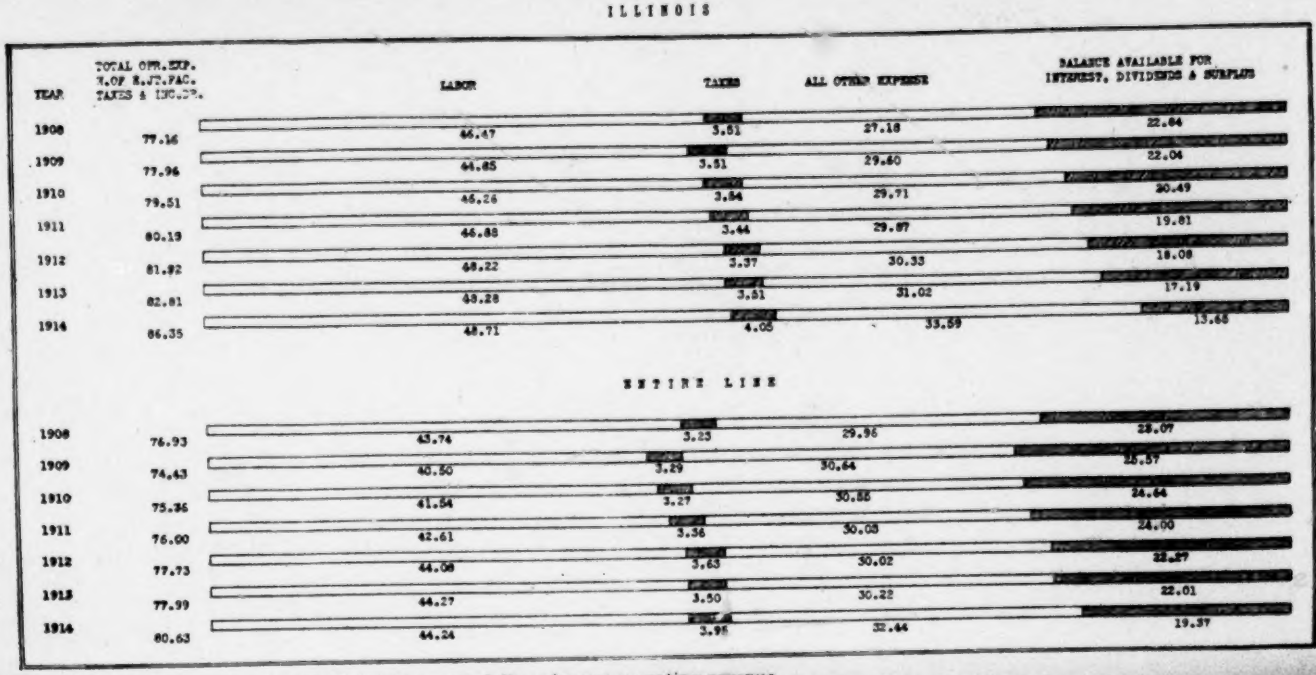
Adjustment:

There was added to Passenger Operating Expenses and deducted from Freight Operating Expenses, 2% of Freight Operating Expenses of each carrier in order to make allowance for the service performed by Freight for Passenger Account in excess of that performed by Passenger for Freight Account.

Value:

The divisions of the Cost of Road and Equipment for the Entire Lin and of the assessors' full value for Illinois between Freight and Passenger were made in the ratios of Freight and Passenger Operating Expenses to the total Operating Expenses.

WETTLING EXHIBIT 16. — APPROPRIATION OF EACH DOLLAR OF OPERATING REVENUE PAID TO THE RAILROADS BY THE PUBLIC, FOR EACH OF THE YEARS 1908-1914, INCL. ELEVEN ROADS OR SYSTEMS.



Scale: $\frac{1}{8}$ inch—one cent. Each full line—one dollar of gross operating revenue.

2138 *Section* 44. *Horton's Evidence and Kramer's Statement Concerning Assessment of Railroad Property in Illinois for Purposes of Taxation.* (*See Section* 43C.)

It shows, among other things, that the Illinois Central's original 705.5 miles of charter lines was assessed by the auditor of public accounts, for taxation purposes at different amounts, for example in 1911, at $114,262,681; that the property of railroad companies in Illinois was assessed in 1913 and prior thereto upon a basis whereby the "full value" of the revenue act was fixed at not exceeding 70 per cent. of the actual cash value; there has been no change in this method of assessing railroad property in Illinois; and his testimony is corroborated by the following statement made at the hearing of the instant case by Mr. E. C. Kramer, an attorney well informed about the assessment of railroad property in Illinois (p. 1323 of the record in the instant case): "It is the theory of the assessing authorities of Illinois that under the situation requiring the full value of property to be fixed by the assessor that they fix it at about 70 per cent. of its real cash value, and therefore the State Board of Equalization in assessing railroad property fixes the full valuation at about 70 per cent. of the cash value of the property."

By agreement of parties, the testimony of Walter S. Horton given before the State Public Utilities Commission of Illinois on November 10, 1915, in the Illinois General Five Per Cent. Case, Docket 2996, pending befort that Commission was made a part of the instant record and marked Horton Exhibit 1 as if he had appeared in person before the Interstate Commerce Commission and repeated said testimony. The following is an abstract of the more material parts of that exhibit:

Mr. W. S. HORTON testified: I have been one of the General Attorneys of the Illinois Central R. Co. since 1909; prior to that time I practiced law at Peoria, Ill., and represented a number of
2139 railroads as local attorney; have had very much to do with the taxation of that part of the Illinois Central known as its charter line.

Under the original charter of the Company, it is required to pay upon that original 705.5 miles of road five per cent. of its gross receipts derived from that original line, and in addition a state tax to be assessed by the Auditor of Public Accounts and if the five per cent., and that tax do not amount to seven per cent., the Company is to pay a sum equal to the difference so it is to pay at least seven per cent.

In the figures submitted (Wettling Exhibits 1 to 39 before Utilities Commission, and which is the same as Wettling Exhibit 28 in the instant case) are included the values determined for the state tax against that original 705.5 miles of road. As the figures have been given to me by the Accounting Department, this composite total value for 1908 is $109,474,711 for the year 1909, $109,350,162; for the year 1910, $114,093,108; for the year 1911, $114,262,681.

Now, all of those amounts are taken from the assessment for that state tax as made in the respective years by the auditor of public accounts. They are amounts fixed as the value of that 705.5 miles of road, for the railroad track and the rolling stock, and the tangible property other than rolling stock, the amount for the year 1912 is $118,457,303, which is the amount as listed by the company with the auditor. But that grew into the litigation which followed in the year 1913. For the year 1913, the Auditor of Public Accounts valued the railroad track—and by railroad track I use it in the sense of the Illinois Railroad Act, which would include the right of way, superstructures of lines and other track, buildings and so forth. He valued that railroad track alone for this state tax at $125,000,000, the rolling stock at $42,675,837; the personal property and other rolling stock at $6,982,517.18, making a total value as determined by the Auditor of Public Accounts for that 705.5 miles of road, for the year 1913, $174,658,378.18. Now, from that assessment, the company appealed to the Supreme Court, and in that proceeding, the court appointed Judge L. D. Puterbaugh as Special Commissioner to take the evidence relating to the value of that 705.5 miles of road for this state tax. In his report, one
2140 of the copies of which I have before me, he fixed the values of these three items, the railroad track, the rolling stock, and the tangible property other than rolling stock, at $93,515,646, and it is that figure which has been taken in this statement and in these data submitted for the years 1913 and 1914 in so far as they represent that original 705.5 miles of road.

Commissioner Funk: May I ask, has the figure that Judge Puterbaugh submitted as Special Examiner ever been acted upon by the Supreme Court?

Mr. Horton: To that report the State took an exception insisting that the amount should be very much higher, and it was submitted to the Supreme Court last June upon that issue. The issue is whether it should be this amount, as the Company contends, or whether it should be a much higher amount which the State contends it should be. But the amount given by Judge Puterbaugh, is the lowest it will be fixed at.

The Chairman: Has that been decided by the Supreme Court?

Mr. Horton: That has not been decided yet, it was argued and submitted in June (1915). Now, in that proceeding—and I explain this so that you will understand what I am testifying to,—there came up the question of the basis upon which that property should be valued. The State insisted that the basis of the value for the taxation should be the reproduction cost, less the depreciation. The Company insisted that under the revenue act which clearly should be applied, it was the commercial value placed largely upon the income actually derived during the years from the property and that is the basis that the commissioner adopted for the lower value.

The State proved in that case before Judge Puterbaugh that the reproduction cost of that 705.5 miles of road less depreciation and omitting all the factors condemned by the Federal and Supreme Court in the Minnesota rate case, was for the railroad track alone

$111,986,966.38. But in these figures which have been included here (Wettling's Exhibit) that railroad track has been taken at a value of $75,000,000. That was Judge Puterbaugh's figure.
2141 Now, the issue before the Supreme Court is as to whether that one hundred and eleven million odd dollars shall be applied to the railroad track or the seventy-five million dollars.

The question arose also as to the basis upon which other property and other railroads were being assessed in the State of Illinois, and I went as far as I could into the investigation of that condition. I found that in 1903 the State Board of Equalization adopted this resolution, and it is copied in the Commissioner's report which I have before me, and I have a certified copy at my office.

The Chairman: You mean Commissioner Puterbaugh's report?

Mr. Horton: Yes. This is the report adopted for the year 1903, "Whereas, it has been the opinion of the individual members of this Board, ever since the receipt of the returns from the several County Clerks of the State, that the real and personal property of the State has been valued for the purpose of assessment for the year 1903, at not to exceed seventy per cent. of its fair cash value; therefore, in order to give expression of such opinion as a Board, be it resolved that in the opinion of this Board, and the Board so finds after careful investigation and full consideration, that the real and personal property of the State has been valued for the purpose of assessment of the year 1903, at not to exceed seventy per cent. of its fair cash value." "A like resolution was adopted in each of the years 1904, 1905 and 1906."

I then took up with the different members of the State Board of Equalization the basis upon which railroad property had been assessed and the reason for it. About twelve or fourteen or more of them testified before the Commissioner, and it was on the basis of their testimony that he made the finding, which I will read from his report. They testified that in valuing the railroad track, the intention was to take as the full value, required by the revenue law, not to exceed seventy per cent. of the actual fair cash market value. You will recall that the assessing officers fixed the full value and the assessed value, and it is the full value which they fixed at seventy per cent. of the actual cash value, as explained by those mem-
2142 bers and testified by them, and found by Judge Puterbaugh.

I then went into the question of the general assessment throughout the state, and I had reports, I think, from 65 counties, and one or more witnesses from the 65 respective counties: Those counties include Piatt, Coles, Ford, Cumberland, Lexington, DeWitt, Moultry, Champlain, Stevenson, Alexander, Christian, Clay, DeKalb, Edward, Effingham, Franklin, Jackson, Fayette, Madison, Marion, Williamson, Iroquois, Jasper, La Salle, Lee, Logan, Macon, Macoupin, Marshall, McLean, Ogle, Peoria, Pulaski, Richland, Saline, Sangamon, Shelby, St. Claire, Caswell, Washington, Vermillion, White, Woodford, Adams, Mason, Douglas, Will, Randolph, Polk, Crawford, Montgomery, Kane, Dubuque, Perry, Massak, Boone, Joe Davis, Union, Hancock, Mackinaw, Fulton, Pike, Henry, Kankakee and Cook. And the investigation included not only the testimony

of witnesses such as county treasurers and county clerks having to do with such matters, members of the board of review, but I had tables from a great number of them showing the conveyances made and tax value put upon same property. I had a record made listing the deeds filed here in Cook County for quite a long interval, in which deeds apparently the actual consideration was stated, and in comparison therewith the value of the property for taxation. I am not speaking of any particular kind of property, but from that investigation I do not hesitate to express——"

The Chairman: Will you repeat, please, "I do not hesitate to express——"

Mr. Horton: I do not hesitate to express the opinion that the finding of the State Board of Equalization that property was assessed generally throughout the state at not to exceed 70 per cent. was certainly conservative. Much of it was even less than 70 per cent. But of course that only went to a justification of the procedure of the State Board of Equalization. Members of the State Board of Equalization testified that it was their practice because of that to fix the railroad value at what they believed to be 70 per cent. of the actual cash value.

2143 Now, in connection with that, Judge Puterbaugh, the special commissioner in that proceeding, found as follows:

"It apears from the testimony of sundry witnesses who were members of the State Board of Equalization in the year 1913 and prior years, while said board did not adopt during any of the years subsequent to 1906 the form of resolutions above recited as adopted in the year 1903, the said board nevertheless, for each of the said years subsequent to 1906, including the year 1913, determined that assessors throughout the state were fixing the full value of taxable property at not to exceed 70 per cent of its fair cash value, and that to conform to such practice, the said Board of Equalization adopted the like practice and basis of full value in the assessment of the classes of property required by law to be originally assessed by said board, and that during the said year 1913 and the years prior thereto, the full value of all such classes of property originally assed by the State Board was fixed at not to exceed 70 per cent. of its fair cash value.

The Commissioner therefore finds that during the year 1913, and for many years prior thereto, it was the intention of the different assessors and assessing bodies of the state to fix as the full value of the taxable property not to exceed 70 per cent of its fair cash value; that the average assessment is less than said 70 per cent.; that the fair cash value fixed by the revenue act as the standard of value was not in the year 1913, nor for many years prior thereto recognized as the full value of such assessed property; that the property of other railroad companies in the state was, during said year 1913 and prior thereto, assessed for the full value upon a basis not exceeding 70 per cent. of the actual cash value; that such lower standard of value was practiced generally throughout the state and was adopted by the State Board of Equalization in the assessment of all classes of property originally assessed by said board in order to meet the

practice so generally adopted by other assessors and to preserve the constitutional requirement of uniformity and equality in the assessment of property for taxation."

2144 This is the part of the commissioner's report that relates to that particular subject.

Of course, in that investigation I found that there were some items of property, for instance, in some of the counties—there might be cash or mortgages that were assessed at 100 per cent., as listed, but I am speaking now of the great volume of property and the average of that assessment, and 70 per cent. is a high estimate, as shown by that investigation, which was as full as I could make it, and I think is as full as has been made on that subject in any proceedings in this state, and in submitting the matter to the Supreme Court, the counsel representing the state admitted that to be true and they not only say, but they submit, as taken from the report of the Illinois State Tax Commission of 1910, the following paragraph:

"It has long been recognized that in Illinois the valuation based upon property for taxation has been only a fraction of its market value, and indeed, a diminishing fraction, and a smaller fraction of true value than in almost any other state."

Section 45. *Vandalia Railroad's Operating Results Under Illinois Rates and Fares Show Light Earnings.*

Mr. E. F. SAUR testified: I am Division Agent of the Vandalia Railroad, whose termini are Indianapolis, Ind., and St. Louis, Mo. Its accounts are kept so that the earnings and expenses of the St. Louis division can be stated. Saur Exhibit 1 shows the ratio of expenses to revenue, detail of passenger revenue, and passenger statistics, 1907-1915, for this division. (422)

Saur Exhibit 2 shows the proportion of intrastate passenger mileage and revenue, St. Louis division in Illinois, for the years ended June 30, 1914-1915 (423).

Saur Exhibit 3 shows the divisions of the general accounts of operating expenses of the St. Louis division in Illinois as between passenger and freight for the years ended June 30, 1907-1915 (423).

Saur Exhibit 4 is a statement of assessments made by the Illinois State Board of Equalization on the St. Louis division for the years 1907-14, inclusive.

2145 Saur Exhibit 5 shows the division of assessed valuation of the St. Louis division in Illinois for the years 1907-14, inclusive, on the basis of passenger and freight revenue (424).

The St. Louis division extends from Indianapolis to East St. Louis, distance 239 miles, about 80 miles of which is in Indiana. The rails of the Vandalia Railroad stop at the east bank of the Mississippi River. In getting to St. Louis, it uses the rails of the Terminal Railroad Association and the ferries of that Association, and its passenger trains run to and from St. Louis.

In keeping its accounts, the expenses at St. Louis are not separated

from the expenses in Illinois, so that the expenses for the St. Louis division in Illinois embraces all of the expenses at St. Louis.

In handling its passenger business in St. Louis, the Vandalia Railroad uses the Union Passenger Station of the Terminal Railroad Association. It has a freight station in St. Louis located at Main and O'Fallon streets (426).

As a general proposition the expenses that can be directly apportioned to either freight or passenger, or as between states, are so apportioned on what is commonly referred to as a basis of facts. Those that cannot be directly apportioned are divided in these statements generally on a revenue train mile basis (427).

That basis was inaugurated July 25, 1906, and was in effect until June 30, 1915, when a change was made due to the action of the Interstate Commerce Commission (428).

Mr. SAUR testified on cross-examination: I do not know of any general change in the situation with respect to relative cost of operation as between shipments to the east side and shipments to the west side of the river. So far as I know, the relative cost to the Vandalia between operating to St. Louis and East St. Louis is the same as heretofore (428-9).

The St. Louis division includes the operation in Indiana as well as in Illinois, and the St. Louis division in Illinois includes the line in Illinois and on the west side of the river in St. Louis (430-1).

Mr. Humburg: We have communicated with counsel for the Vandalia Railroad, concerning the testimony of a representative
2146 from the Accounting Department of his Company to appear for further evidence, and I am in receipt of advice by telegraph that it would be impossible to have such a representative here today, that the expenses were apportioned in accordance with a printed formula, and that if it were desired it would afford Judge Williams pleasure to give a copy of that formula as an additional exhibit, at the same time furnishing two or three copies for the use of the parties interested in the case (1598).

Examiner Gutheim: It will be understood that the Vandalia will file a statement such as you have mentioned in support of the method of dividing their expenses.

Mr. Humburg: Yes (1599).

NOTE. Copies of this formula were furnished for the record and to opposing counsel.

Said Saur Exhibits 1 to 5, inclusive, show among other things the following: A constant increase in operating expenses and taxes in greater ratio than the increase in operating revenues—resulting in smaller margin of net operating income and that the ratio of operating expenses and taxes to revenue have increased on the entire division from 72.54 per cent. in 1907 to 80.95 per cent. in 1915. This condition is still more marked on that part of the St. Louis division which lies in Illinois, the ratio having increased from 68.04 per cent. in 1907 to 81.62 per cent. in 1915. As to the passenger traffic the

situation is somewhat different because of slightly higher average receipts per passenger mile in Illinois, but the increase is as great, rising from 71.20 per cent. in 1907 to 82.02 per cent. in 1915 and leaving a margin of net operating income which is palpably too low with decreasing tendency.

Section 46. *Cornick's Evidence Concerning L. & N. Financial Data. Also Concerning Comparison of Its Rates in Illinois and Indiana.*

Mr. H. P. CORNICK testified: I am Assistant General Freight Agent for the Louisville & Nashville R. Co.; have been engaged in rate construction for something over 20 years, and for the
2147 past several years have been connected with its Illinois rate adjustment. The L. & N. has about 180 miles of single track road in Illinois (1252).

Cornick Exhibit 1 is an excerpt from the L. & N.'s annual report to the Interstate Commerce Commission for the years ended June 30, 1904, to 1915, inclusive, showing the operating revenues, operating expenses, the taxes, the sum of the operating expenses and taxes and the ratio of operating expenses and taxes to operating revenues. The ratio in 1904 was 69.35 per cent. and in 1915, it was 88.06 per cent., showing a gradually increasing ratio of operating expenses to gross earnings. Cornick Exhibit 2 shows the same information in graphic form (1253-4). Cornick Exhibit 3 explains in part the increase in the ratio of operating expenses to revenues, indicating the various employes in the operating department on the St. Louis division. These data cover the St. Louis division only. It extends from East St. Louis to Evansville, Ind., and includes the expenses and earnings of the Broadway Station in St. Louis. It takes in also the branch from McLeansboro to Shawneetown, and from O'Fallon Junction to O'Fallon. Excepting Evansville, we have five or six small stations in Indiana. This Exhibit 3 gives in detail form the character (classification) of employes, total number of days worked, rate per day for 1902, 1907 and 1914, the amounts based on the number of days worked for each year and the increase for the year ending June 30, 1914, over the expense for the years ending June 30, 1902 and 1907, showing a total increase of 48.45 per cent. for the year 1914 as compared with the year 1902 (1256).

Cornick Exhibit 4 is another explanation of this increase, showing the increase in the cost of maintenance of way and structures per mile of road for the fiscal years ending June 30, 1901 to 1914, inclusive. It shows that the cost in 1901 was $754.73 per mile, and in 1914, $1,144.82 per mile, being almost a gradual increase for each period (1257). Cornick Exhibit 5 is a still further explanation of these increases in the locomotive expensese per mile run, showing the figures for the fiscal years ending June 30, 1894 to 1914, inclusive, and showing an increase of from 18¼ cents per mile in 1894 to 29.94 cents per mile in 1914 (1257).

2148 Cornick Exhibit 6 shows the total book cost of road and equipment for the St. Louis divison for the fiscal year ended

June 30, 1901 to 1915, inclusive. This statement shows the total operating revenues, operating expenses, including taxes, and the net operating income (1258). Under the coluumn "Interest at 6 per cent. per annum," on the book cost of road and equipment is shown what 6 per cent. on the book cost for each year would have amounted to. The next two columns show the excess or deficit over or under what the company should have earned on the basis of 6 per cent. on its book cost. The net result shows that for the period shown it earned $1,135,036.04 less than 6 per cent. interest on its book cost. To earn six per cent. the L. & N. is short over a million and a quarter dollars during that period (1258-9).

Cornick Exhibit 7 is a comparison of Illinois state rates, class B schedule, single-line, for varying distances within the state rates for the same distances to Illinois points over single lines (1259).

The Louisville & Nashville Railroad is a class B railroad in Illinois and as such has the authority of the Commission to plus the class A schedule 10 per cent. on the first five classes and 5 per cent. on the remaining classes, and the classification commodities. This statement shows, first, what the class B schedule for given distances is; and, second, the actual rates charged from points without the State of Illinois to points within the State of Illinois for nearly equivalent distances. The distances correspond very nearly, but in a few instances we were not able to draw the exact parallels.

Cornick Exhibit 8 is a comparison of actual rates charged between points in Indiana, between points in Illinois and between points in Indiana and Illinois for equal distances, showing that the rates of the Louisville & Nashville Railroad between points in Illinois average lower than rates between points in Indiana or between points in Indiana and points in Illinois (1259-60).

2149 Before the Interstate Commerce Commission.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS (a Corporation), Complainant,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al., Defendants; East Side Manufacturing Association, Industrial Association of Keokuk, Chicago Association of Commerce, State Public Utilities Commission of Illinois, State of Illinois and the People of the State of Illinois, Interveners.

Brief and Argument for the State Public Utilities Commission of Illinois, the State of Illinois and the People of the State of Illinois, Interveners.

Patrick J. Lucey, Attorney General of the State of Illinois; Timothy F. Mullen, Thomas E. Dempcy, Assistant Attorneys General, for the State of Illinois, the People of the State of Illinois, and State Public Utilities Commission of Illinois.

2150 Before the Interstate Commerce Commission.

Docket No. 8083.

THE BUSINESS MEN'S LEAGUE OF ST. LOUIS (a Corporation), Complainant,

vs.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY et al., Defendants; East Side Manufacturing Association, Industrial Association of Keokuk, Chicago Association of Commerce, State Public Utilities Commission of Illinois, State of Illinois and the People of the State of Illinois, Interveners.

Brief and Argument for the State Public Utilities Commission of Illinois, the State of Illinois and the People of the State of Illinois, Interveners.

2151 *Scope of This Brief.*

The application of the respondent carriers for authority to make a five per cent. advance in freight rates on intrastate traffic in Illinois, is now pending before the State Public Utilities Commission of Illinois. The hearing of that application was begun on November 9, 1915, and it was drawing to a close in January, 1916, while this brief was in preparation. Other interveners will discuss the question of freight rates in the present proceeding, but in this brief the discussion will be confined to the question of passenger fares.

2152 *Evidence.*

The exhibits submitted by the State Public Utilities Commission of Illinois are contained in the Appendix to this brief.

The following is part of the testimony of Mr. Wettling:

On the Santa Fe, all the terminal expenses would be localized in Illinois. (1421)

Also all the switching. That is generally true with all the other roads, except the Northwestern. And the general shops and upkeep the same way. On the St. Paul and the Rock Island the switching and terminal costs are all charged up against Illinois. (1423)

On the Illinois Central switching and terminals are localized and I judge that the St. Louis terminals and expenses in Missouri, the Illinois Central charges to Illinois. (1425)

Everything in the way of local switching and terminal charges, including Chicago and St. Louis; out of $29,000,000 operating revenues, in Illinois they only have a net of $4,000,000; I have no doubt but what St. Louis is charged in there. (1426)

In 'Method B' the maintenance of joint tracks, yards and other facilities is all localized, excepting common-to-line items, which

should be divided on basis of revenue, passenger and freight train miles in each state to the total revenue passenger and freight train mileage of the division or entire line. Maintenance of joint yards, tracks and other facilities under maintenance of way and, of course, maintenance excepting as to superintendence, is all localized. They are localized except when a division crosses at the state line, and then the revenue train-mileage basis is used. (1436) That would throw the entire Chicago terminal into Illinois in each case. In the case of St. Louis it would do so with those lines which terminated
2153 at St. Louis, coming into St. Louis from Illinois. (1437)

Under this division between line and state the cost of such terminals as Chicago would all be charged against the State of Illinois; and they are under this plan. And the cost of the St. Louis terminals and eight or nine miles of track in Missouri is charged into Illinois expenses, under the head of joint facilities rentals, with such lines as terminate in St. Louis from the east. (1438)

In the case of a Wabash-St. Louis passenger train all the terminal expense at Chicago would be charged against Illinois, and all expenses at St. Louis, to Missouri. But on the Illinois Central, all of the expenses, including St. Louis, would be localized in Illinois. True, also, of the Vandalia and Louisville & Nashville. (1441)

With all the roads that land in St. Louis and do not go beyond, every dollar of the expense goes into Illinois expense, as would also the revenue, both freight and passenger. And all the terminal expenses at Chicago. (142)

At Chicago, when coaches go into depot, are hauled by switch engines to coach yards, are cleaned, and then turned around, made up and brought back to the depot—all that expense is charged to Illinois. That would be true of a Rock Island train from San Francisco.

At Chicago they have acres and acres of ground covered with buildings, lined with hot air and steam pipes, for testing the brakes and keeping cars warm, and all that expense is charged to Illinois for passenger business. (1447)

2154 NOTE. Pages 10 to 69, inclusive, comprising the argument of the State Public Utilities Commission of Illinois, the State of Illinois, and the People of the State of Illinois, interveners, are not included in this. Defendants' Exhibit 4-A, in Illinois Central Railroad Company v. State Public Utilities Commission of Illinois, et al., No. 753.

A. P. HUMBURG.

APPENDIX

EXHIBITS

FILED BY

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS

2156 *Finding List.*

Page. Subject.

1. Summary of Operating Results, Freight and Passenger—Entire Line and Illinois.
2. Operating Expenses divided between Freight and Passenger—Entire Line.
3. Operating Expenses divided between Freight and Passenger—Illinois.
4. Analysis of other Revenues divided between Freight and Passenger—Entire Line and Illinois.
5. Auxiliary Revenues divided as between Freight and Passenger—Entire Line and Illinois.
6. Allocation of Common Items of Revenue between Freight and Passenger—Entire Line.
7. Allocation of Common Items of Revenue between Freight and Passenger—Illinois.
8. Allocation of Hire of Equipment, etc., Credit balance, between Freight and Passenger—Entire Line and Illinois.
9. Allocation of Hire of Equipment, etc., Debit balance, between Freight and Passenger—Entire Line and Illinois.
10. Statistics of Operating Expenses, Freight and Passenger—Entire Line and Illinois.
11. Statistics of Operating Revenues, Freight—Entire Line and Illinois.
12. Statistics of Operating Revenues, Passenger—Entire Line and Illinois.
13. Operating Income Account—Entire Line and Illinois.
14. Net Revenues from Freight Operations—Entire Line and Illinois.
15. Net Revenues from Passenger Operations—Entire Line and Illinois.
16. Earnings on Assessed Value in State of Illinois.
17. Wage Table—Entire Line and Illinois.
18. Cost of Road and Equipment, Entire Line and Mileage Statistics—Entire Line and Illinois.
19. Comments on Wettling's Exhibits.
20. Statement of Assessed and Full Values per Mile of Main Track, and Rolling Stock per Foot of Main Track.
21. Financial Statement, 23 Roads—Entire Line.

(Here follow tables, marked page 2156*a* (1-21); also maps, marked pages 2157-2159.)

OPERATING RESULTS—FREIGHT AND PASSENGER—23 ROADS—ENTIRE LINE—YEAR ENDED JUNE 30, 1914.

ENTIRE LINE FIGURES AS PER REPORTS OF CARRIERS.

	Total	Freight.	Per Cent of Total. Freight.	Per Cent of Total. Passenger.	Passenger.	Ratio of Expense to Revenue. Total.	Ratio of Expense to Revenue. Freight.	Ratio of Expense to Revenue. Passenger.	Ratio of Net Operating Income To Cost of Road and Equipment. Total.	Ratio of Net Operating Income To Cost of Road and Equipment. Freight.	Ratio of Net Operating Income To Cost of Road and Equipment. Passenger.
Gross Operating Revenue	$731,061,058 37	$507,758,911 82	69.46	30.54	$223,302,146 55						
Total Operating Expenses[1]	540,091,163 21	349 894,998 50	64.78	35.22	190,196,164 71						
Hire of Equipment, etc., Debit (net)	12,167,764 02	10,506,590 16	86.35	13.65	1,661,173 86						
Railway Tax Accruals	32,846,518 45	21,277,974 65	64.78	35.22	11,568,543 80						
Total Expenses	$585,105,445 68	$381,679,563 31	65.23	34.77	$203,425,882 37	80.04	75.17	91.10			
Net Railway Operating Income	$145,955,612 69	$126,079.348 51	86.38	13.62	$19,876,264 18				4.057	5.410	1.569
Net Cost of Road and Equipment											
Ratio Excluding 2% Adjustment	$3,597,370,107 18	$2,330,376,355 43	64.78	35.22	$1,266,993,751 75	80.04	76.65	87.72	4.057	4.985	2.248

ILLINOIS.

Taxes divided between Freight and Passenger in the Ratio of Freight and Passenger Operating Expense to Total Operating Expenses Freight and Passenger Expenses Assigned to Illinois in the Proportion of Freight and Passenger Revenue Train Miles in Illinois to Total Revenue Train Miles Hire of Equipment Proportioned on Equipment Classification Mileage in Illinois to Total and Assigned to Freight and Passenger by Classes of Equipment. Other Items Freight and Passenger Expenses to Total.

Gross Operating Revenue	$163,038,948 13	$115,395,527 35	70.78	29.22	$47,643,420 78						
Total Operating Expense	115,612,818 62	74,599,650 93	64.53	35.47	41,013,167 69						
Hire of Equipment, etc., Debit (net)	2,041,456 43	1,895,793 68	92.86	7.14	145,862 75						
Railway Tax Accruals	6,276,867 30	4,050,449 56	64.53	35.47	2,226,397 74						
Total Expense	$123,931,322 35	$80,545,894 17	64.99	35.01	$43,385,428 18	76.01	69.80	91.06			
Net Railway Operating Income	$39,107,625 78	$34,849,633 18	89.11	10.89	$4,257,992 60				6.245	8.624	1.917
Assessed Value of Road and Equipment[2]											
Ratio Excluding 2% Adjustment	$626,182,510 00	$404.075,573 70	64.53	35.47	$222,106,936 30	76.01	71.17	87.75	6.245	8.072	2.728

[1] 2% Added to Passenger for Service Rendered Passenger by Freight in Excess of Service Rendered Freight by Passenger. No Evidence Introduced Supporting this Adjustment.

[2] Includes I. C. Assessed Value Figure Used by Wettling.

NAME OF ROAD OR SYSTEM.	Maintenance of Way and Structures. Freight.	Passenger.	Total.	Maintenance of Equipment. Freight.	Passenger.	Total.	Traffic of R Freight.	Pass
Atchison, Topeka & Santa Fe	$7,597,825 41	$7,710,954 84	$15,308,780 25	$13,495,565 41	$5,605,159 10	$19,100,724 51	$1,163,976 05	$1,2
Chicago & Alton	956,463 82	980,530 27	1,936,994 09	2,548,692 30	1,096,459 40	3,645,151 70	249,442 50	
Chicago & Eastern Illinois	1,194,397 88	1,048,181 69	2,242,579 57	3,279,573 07	783,307 32	4,062,880 39	159,294 36	
Chicago & North Western	5,534,451 07	6,645,238 78	12,179,689 85	8,660,123 57	3,526,999 60	12,187,123 17	498,771 02	
Chicago, Burlington & Quincy	7,148,374 70	4,854,252 87	12,002,627 57	11,903,034 05	3,985,652 40	15,888,686 45	793,142 83	
Chicago Great Western	951,090 24	1,073,367 47	2,024,457 71	1,869,142 03	498,093 09	2,367,235 12	308,133 00	
Chicago, Milwaukee & Gary	106,676 62	.....	106,676 62	95,132 42	.....	95,132 42	17,897 85	.....
Chicago, Milwaukee & St. Paul	6,676,131 46	4,028,387 55	10,704,519 01	9,886,612 46	3,226,365 52	13,112,977 98	912,959 23	
Chicago, Rock Island & Pacific	4,281,746 61	4,197,852 34	8,479,598 95	6,432,301 54	3,020,178 55	9,452,480 09	908,349 97	
Chicago, Terre Haute & Southeastern	205,312 29	110,616 33	315,928 62	562,992 15	50,316 28	613,308 43	40,237 17	
Cleveland, Cincinnati, Chicago & St. Louis	2,679,022 39	2,475,917 74	5,154,940 13	6,641,653 03	1,926,010 84	8,567,663 87	576,073 84	
Kankakee & Seneca	11,969 85	15,744 57	27,714 42	3,611 98	4,751 00	8,362 98	.....	.....
Peoria & Eastern	104,382 44	122,486 57	226,869 01	253,514 59	106,335 78	359,850 37	22,608 38	
Illinois Central	5,357,685 51	3,848,260 87	9,205,946 38	11,654,552 34	2,855,527 15	14,510,079 49	847,601 80	
Illinois Southern	36,889 47	39,963 58	76,853 05	44,505 84	48,235 48	92,741 32	9,130 46	
Lake Erie & Western	548,982 42	333,732 14	882,714 56	956,539 92	206,766 22	1,163,306 14	139,116 89	
Minneapolis & St. Louis	944,683 86	355,598 67	1,300,282 53	1,139,005 42	276,991 44	1,415,996 86	164,233 29	
Mobile & Ohio	1,062,006 31	440,113 99	1,502,120 30	2,332,052 54	350,868 65	2,682,921 19	389,750 03	
St. Louis, Iron Mountain & Southern	2,724,923 64	1,710,741 32	4,435,664 96	4,283,557 70	994,557 07	5,278,114 77	411,772 71	
Southern Railway	4,218,255 52	4,880,656 31	9,098,911 83	8,892,561 23	3,081,528 57	11,974,089 80	1,147,800 03	1,0
Toledo, Peoria & Western	107,975 11	144,699 87	252,674 98	255,201 99	70,488 71	325,690 70	23,071 49	
Toledo, St. Louis & Western	329,672 32	139,946 37	469,618 69	416,240 59	176,694 72	592,935 31	141,199 16	
Vandalia Railroad	797,681 84	657,701 62	1,455,383 46	1,755,647 50	511,664 36	2,267,311 86	187,026 44	
Total, 23 roads	$53,576,600 78	$45,814,945 76	$99,391,546 54	$97,361,813 67	$32,402,951 25	$129,764,764 92	$9,111,588 50	$7,9

OPERATING EXPENSES—DIVIDED AS BETWEEN PASSENGER AND FREIGHT—23 ROADS—ENTIRE LINE.

YEAR ENDED JUNE 30, 1914

Figures taken from Mr. Wettling's Working Papers.

Traffic of Expenses.			Transportation Expenses.			General Expenses.			Total Operating Expenses.	
Passenger.	Total.	Freight.	Passenger.	Total.	Freight.	Passenger.	Total.	Freight.	Passenger.
6 05	$1,357,476 89	$2,521,452 94	$22,776,043 82	$11,042,389 01	$33,818,432 83	$1,570,600 15	$1,149,343 00	$2,719,943 15	$46,604,010 84	$26,865,322 84
2 50	262,654 63	512,097 13	3,713,449 39	1,888,132 72	5,601,582 11	284,469 21	161,058 14	445,527 35	7,752,517 22	4,388,835 16
4 36	127,113 30	286,407 66	3,805,355 88	2,104,234 91	5,909,590 79	249,018 62	218,534 17	467,552 79	8,687,639 81	4,281,371 39
1 02	858,871 81	1,357,642 83	19,971,549 12	11,969,645 24	31,941,194 36	790,424 86	949,066 46	1,739,491 32	35,455,319 64	23,949,821 89
2 83	841,529 60	1,634,672 43	21,202,547 54	9,021,976 36	30,224,523 90	1,439,651 65	958,236 01	2,397,887 66	42,486,750 77	19,661,647 24
3 00	269,611 43	577,744 43	3,761,446 50	1,667,050 13	5,428,496 63	203,533 33	229,700 67	433,234 00	7,093,345 10	3,737,822 79
7 85	.....	17,897 85	188,418 75	.....	188,418 75	20,547 83	.....	20,547 83	428,673 47	.....
9 23	886,650 42	1,799,609 65	24,797,189 63	9,163,391 89	33,960,581 52	1,243,308 65	509,064 36	1,752,373 01	43,516,201 43	17,813,859 74
9 97	900,305 32	1,808,655 29	18,363,477 97	8,916,448 52	27,279,926 49	933,425 22	939,052 66	1,872,477 88	30,919,301 31	17,973,837 39
7 17	2,901 32	43,138 49	540,415 95	153,560 15	693,976 10	86,259 74	23,316 82	109,576 56	1,435,217 30	340,710 90
3 84	302,757 34	878,831 18	11,280,686 39	3,842,904 43	15,123,590 82	573,919 48	225,856 83	799,776 31	21,751,355 13	8,773,447 18
.....	.....	.....	15,302 78	20,128 51	35,431 29	928 32	1,221 06	2,149 38	31,812 93	41,845 14
3 38	11,261 86	33,870 24	458,222 33	233,120 95	691,343 28	22,411 77	12,893 47	35,305 24	861,139 51	486,098 63
1 80	443,176 18	1,290,777 98	18,147,502 60	6,002,537 38	24,150,039 98	1,108,277 00	510,206 63	1,618,483 63	37,115,619 25	13,659,708 21
9 46	9,891 32	19,021 78	100,168 79	108,516 18	208,684 97	17,579 39	19,044 34	36,623 73	208,273 95	225,650 90
3 89	29,491 88	168,608 77	1,752,284 97	616,135 16	2,368,420 13	102,336 76	42,841 60	145,178 36	3,499,260 96	1,228,967 00
3 29	49,892 88	214,126 17	2,921,412 92	799,616 68	3,721,029 60	172,009 04	68,369 24	240,378 28	5,341,344 53	1,550,468 91
9 03	114,000 79	503,750 82	4,104,363 24	882,560 48	4,986,923 72	325,250 46	74,860 99	400,111 45	8,213,422 58	1,862,404 90
2 71	237,359 77	649,132 48	7,082,297 89	3,030,460 01	10,112,757 90	535,150 70	335,469 45	870,620 15	15,037,702 64	6,308,587 62
9 03	1,095,756 44	2,243,556 47	14,961,951 51	10,089,828 79	25,051,780 30	1,329,411 52	873,424 62	2,202,836 14	30,549,979 81	20,021,194 73
1 49	7,606 17	30,677 66	353,637 21	229,352 94	582,990 15	21,936 09	22,185 67	44,121 76	761,821 89	474,333 36
9 16	59,939 24	201,138 40	1,238,512 97	525,750 52	1,764,263 49	77,353 49	32,836 67	110,190 16	2,202,978 53	935,167 52
3 44	125,569 38	312,595 82	3,146,057 36	1,389,379 26	4,535,436 62	154,959 28	116,511 98	271,471 26	6,041,372 42	2,800,826 60
3 50	$7,993,817 97	$17,105,406 47	$184,682,295 51	$83,697,120 22	$268,379,415 73	$11,262,762 56	$7,473,094 84	$18,735,857 40	$355,995,061 02	$177,381,930 04

Total.	Total Operating Expenses. Freight.	Passenger.	Total.	Auxiliary (Outside) Operations. Freight.	Passenger.	Total.	Total Operating and Auxiliary Expenses. Freight.	Passenger.	Total.
				.....	.....	.....	$46,604,010 84	$26,865,322 84	$73,469,333 68
2,719,943 15	$46,604,010 84	$26,865,322 84	$73,469,333 68	.....	$ 41,966 26	$ 41,900 26	7,752,517 22	4,430,801 42	12,183,318 64
445,527 35	7,752,517 22	4,388,835 16	12,141,352 38	.....	117,477 72	117,477 72	8,687,639 81	4,398,849 11	13,086,488 92
467,552 79	8,687,639 81	4,281,371 39	12,969,011 20	.....	863,142 09	896,433 77	35,488,611 32	24,812,963 98	60,301,575 30
1,739,491 32	35,455,319 64	23,949,821 89	59,405,141 53	$ 33,291 68	889,797 32	1,076,454 81	42,673,408 26	20,551,444 56	63,224,852 82
2,397,887 66	42,486,750 77	19,661,647 24	62,148,398 01	186,657 49	91,946 03	92,466 01	7,093,865 08	3,829,768 82	10,923,633 90
433,234 00	7,093,345 10	3,737,822 79	10,831,167 89	519 98	.....	.....	428,673 47	.....	428,673 47
20,547 83	428,673 47	.....	428,673 47	.....	1,542,763 37	1,542,945 66	43,516,383 72	19,356,623 11	62,873,006 83
1,752,373 01	43,516,201 43	17,813,859 74	61,330,061 17	182 29	624,809 32	624,809 32	30,919,301 31	18,598,646 71	49,517,948 02
1,872,477 88	30,919,301 31	17,973,837 39	48,893,138 70	.....	.....	11,378 19	1,446,595 49	340,710 90	1,787,306 39
109,576 56	1,435,217 30	340,710 90	1,775,928 20	11,378 19	385,682 39	407,108 51	21,772,781 25	9,159,129 57	30,931,910 82
799,776 31	21,751,355 13	8,773,447 18	30,524,802 31	21,426 12	.....	.....	31,812 93	41,845 14	73,658 07
2,149 38	31,812 93	41,845 14	73,658 07	.....	.....	.....	861,139 51	486,098 63	1,347,238 14
35,305 24	861,139 51	486,098 63	1,347,238 14	.....	.....	.....	37,211,625 18	14,081,155 73	51,292,780 91
1,618,483 63	37,115,619 25	13,659,708 21	50,775,327 46	96,005 93	421,447 52	517,453 45	208,273 95	225,650 90	433,924 85
36,623 73	208,273 95	225,650 90	433,924 85	.....	.....	.....	3,499,260 96	1,228,967 00	4,728,227 96
145,178 36	3,499,260 96	1,228,967 00	4,728,227 96	.....	.....	.....	5,341,344 53	1,551,781 73	6,893,125 26
240,378 28	5,341,344 53	1,550,468 91	6,891,813 44	.....	1,312 82	1,312 82	8,213,422 58	1,908,722 00	10,122,144 58
400,111 45	8,213,422 58	1,862,404 90	10,075,827 48	.....	46,317 10	46,317 10	15,052,172 75	5,442,691 31	21,494,864 06
870,620 15	15,037,702 64	6,308,587 62	21,346,290 26	14,470 11	134,103 69	148,573 80	31,197,313 25	20,563,336 02	51,760,649 27
2,202,836 14	30,549,979 81	20,021,194 73	50,571,174 54	647,333 44	542,141 29	1,189,474 73	761,821 89	474,333 36	1,236,155 25
44,121 76	761,821 89	474,333 36	1,236,155 25	.....	.....	.....	2,202,978 53	935,167 52	3,138,146 05
110,190 16	2,202,978 53	935,167 52	3,138,146 05	.....	.....	.....	6,041,372 42	2,800,826 60	8,842,199 02
271,471 26	6,041,372 42	2,800,826 60	8,842,199 02	.....	.....	.....			
18,735,857 40	$355,995,061 02	$177,381,930 04	$533,376,991 06	$1,011,265 23	$5,702,906 9	$6,714,172 15	$357,006,326 25	$183,084,836 96	$540,091,163 21

NAME OF ROAD OR SYSTEM.	Maintenance of Way and Structures. Freight.	Passenger.	Total.	Maintenance of Equipment. Freight.	Passenger.	Total.	Traffic Ex Freight.	Passen
Atchison, Topeka & Santa Fe	$505,255 39	$532,055 88	$1,037,311 27	$897,455 10	$386,755 98	$1,284,211 08	$77,404 41	$93
Chicago & Alton	647,143 42	702,451 89	1,349,595 31	1,724,445 21	785,503 51	2,509,948 72	168,772 80	188
Chicago & Eastern Illinois	869,402 22	677,335 01	1,546,737 23	2,387,201 24	506,173 19	2,893,374 43	115,950 36	82
Chicago & North Western	907,096 53	1,719,787 80	2,626,884 33	1,419,394 25	912,787 50	2,332,181 75	81,748 57	222
Chicago, Burlington & Quincy	2,184,543 31	1,201,427 59	3,385,970 90	3,637,567 19	986,448 97	4,624,016 16	242,384 45	208
Chicago Great Western	181,087 58	147,588 03	328,675 61	355,884 64	68,487 80	424,372 44	58,668 52	37
Chicago, Milwaukee & Cary	106,676 62	.....	106,676 62	93,132 42	.....	95,132 42	17,897 85	.....
Chicago, Milwaukee & St. Paul	653,593 27	466,890 12	1,120,483 39	967,899 36	373,935 76	1,341,835 12	89,378 71	102
Chicago, Rock Island & Pacific	473,133 00	664,520 03	1,137,653 03	710,769 32	478,094 26	1,188,863 58	100,372 67	142
Chicago, Terre Haute & Southeastern	78,901 51	.....	78,901 51	216,357 88	.....	216,357 88	15,463 14	.....
Cleveland, Cincinnati, Chicago & St. Louis	727,086 68	671,964 07	1,399,050 75	1,802,544 63	522,719 34	2,325,263 97	156,346 44	82
Kankakee & Seneca[1]	12,700 41	15,014 01	27,714 42	3,832 43	4,530 55	8,362 98	.....	.....
Peoria & Eastern	39,122 54	45,907 97	85,030 51	95,017 27	39,854 65	134,871 92	8,473 62	4
Illinois Central	2,391,135 04	2,040,732 74	4,431,867 78	5,201,426 69	1,514,286 05	6,715,712 74	378,284 68	235
Illinois Southern	23,033 79	32,502 38	55,536 17	27,789 45	39,229 92	67,019 37	5,701 06	8
Lake Erie & Western	73,344 05	44,586 61	117,930 66	127,793 73	27,623 97	155,417 70	18,586 02	3
Minneapolis & St. Louis	102,876 07	19,557 93	122,434 00	124,037 69	15,234 53	139,272 22	17,885 01	2
Mobile & Ohio	234,703 39	66,765 29	301,468 68	515,383 61	53,226 77	568,610 38	86,134 76	17
St. Louis, Iron Mountain & Southern	298,106 65	262,940 94	561,047 59	468,621 21	152,863 42	621,484 63	45,047 93	36
Southern Railway	126,547 67	101,029 58	227,577 25	266,776 84	63,787 64	330,564 48	34,434 00	22
Toledo, Peoria & Western	107,975 11	144,699 87	252,674 98	255,201 99	70,488 71	325,690 70	23,071 49	7
Toledo, St. Louis & Western	131,341 45	55,754 63	187,096 08	165,830 25	70,395 17	236,225 42	56,253 75	23
Vandalia Railroad	322,742 07	305,831 25	628,573 32	710,334 98	237,923 93	948,258 91	75,670 90	58
Total, 23 roads	$11,197,547 77	$9,919,343 62	$21,116,891 39	$22,176,697 38	7,310,351 62	$29,487,049 00	$1,873,931 14	$1,579

[1]Division of Freight and Passenger varies over Entire Line, as per Mr. Wetting's figures, on account of difference in Revenue Train Miles used.

G EXPENSES—DIVIDED AS BETWEEN FREIGHT AND PASSENGER ON REVENUE TRAIN MILE BASIS—28 ROADS—STATE OF ILLINOIS.

YEAR ENDED JUNE 30, 1914.

Entire Line figures, from which Illinois figures were arrived at, were taken from Mr. Wettling's Working Papers

Traffic Expenses.		Transportation Expenses.			General Expenses.			Total Operating Expenses.		
Passenger.	Total.	Freight.	Passenger.	Total.	Freight.	Passenger.	Total.	Freight.	Passenger.	T
$93,665 91	$171,070 32	$1,514,606 91	$761,924 84	$2,276,531 75	$104,444 91	$79,304 67	$183,749 58	$3,099,166 72	$1,853,707 28	$4,
188,165 78	356,938 58	2,512,519 86	1,352,658 28	3,865,178 14	192,471 87	115,382 05	307,853 92	5,245,353 16	3,144,161 51	8,
82,140 61	198,090 97	2,769,918 55	1,359,756 60	4,129,675 15	181,260 65	141,216 78	322,477 43	6,323,733 02	2,766,622 19	9,
222,276 02	304,024 59	3,273,336 90	3,097,744 18	6,371,081 08	129,550 63	245,618 40	375,169 03	5,811,126 88	6,198,213 90	12,
208,278 58	450,663 03	6,479,498 52	2,232,939 15	8,712,437 67	439,957 54	237,163 41	677,120 95	12,983,951 01	4,866,257 70	17,
37,071 57	95,740 09	716,179 41	229,219 39	945,398 80	38,752 75	31,583 84	70,336 59	1,350,572 90	513,950 63	1,
.....	17,897 85	188,418 75	.....	188,418 75	20,547 83	.....	20,547 83	428,673 47	.....	
102,762 78	192,141 49	2,427,644 86	1,062,037 12	3,489,681 98	121,719 92	59,000 56	180,720 48	4,260,236 12	2,064,626 34	6,
142,518 33	242,891 00	2,029,164 31	1,411,473 80	3,440,638 11	103,143 49	148,652 04	251,795 53	3,416,582 79	2,845,258 46	6,
.....	15,463 14	207,681 85	.....	207,681 85	33,149 62	.....	33,149 62	551,554 00	.....	
82,168 34	238,514 78	3,061,578 29	1,042,964 26	4,104,542 55	155,761 75	61,297 54	217,059 29	5,903,317 79	2,381,113 65	8,
.....	.....	16,236 74	19,194 55	35,431 29	984 97	1,164 41	2,149 38	33,754 55	39,903 52	
4,220 95	12,694 57	171,741 73	87,373 73	259,115 46	8,399 93	4,832 47	13,232 40	322,755 09	182,189 77	
235,016 33	613,301 01	8,099,230 41	3,183,145 57	11,282,375 98	494,624 03	270,562 58	765,186 61	16,564,700 85	7,243,743 27	23,
8,044 61	13,745 67	62,545 39	88,256 21	150,801 60	10,976 57	15,488 76	26,465 33	130,046 26	183,521 88	
3,940 12	22,526 14	234,105 27	82,315 66	316,420 93	13,672 19	5,723 64	19,395 83	467,501 26	164,190 00	
2,744 11	20,629 12	318,141 89	43,978 92	362,120 81	18,731 78	3,760 31	22,492 09	581,672 44	85,275 80	
17,293 92	103,428 68	907,064 28	133,884 42	1,040,948 70	71,880 35	11,356 41	83,236 76	1,815,166 39	282,526 81	2,
36,482 20	81,530 13	774,803 39	465,781 70	1,240,585 09	58,545 49	51,561 65	110,107 14	1,645,124 67	969,629 91	2,
22,682 16	57,116 16	448,858 55	208,859 46	657,718 01	39,882 35	18,079 89	57,962 24	916,499 41	414,438 73	1,
7,606 17	30,677 66	353,637 21	229,352 94	582,990 15	21,936 09	22,185 67	44,121 76	761,821 89	474,333 36	1,
23,879 79	80,133 54	493,423 57	209,459 01	702,882 58	30,817 63	13,082 13	43,899 76	877,666 65	372,570 73	1,
58,389 76	134,060 66	1,272,894 81	646,061 36	1,918,956 17	62,696 52	54,178 07	116,874 59	2,444,339 28	1,302,384 37	3,
$1,579,348 04	$3,453,279 18	$38,333,231 45	$17,948,381 15	$56,281,612 60	$2,353,908 86	$1,591,195 28	$3,945,104 14	$75,935,316.60	$38,348,619 71	$11

Total.	Total Operating Expenses. Freight.	Passenger.	Total.	Auxilliary (Outside) Operations. Freight.	Passenger.	Total.	Total Operating and Auxilliary Expenses. Freight.	Passenger.	Total.
$183,749 58	$3,099,166 72	$1,853,707 28	$4,952,874 00	.....	.....	.....	$3,099,166 72	$1,853,707 28	$4,952,874 00
307,853 92	5,245,353 16	3,144,161 51	8,389,514 67	.....	$124,327 56	$124,327 56	5,245,353 16	3,268,489 07	8,513,842 23
322,477 43	6,323,733 02	2,766,622 19	9,090,355 21	.....	75,185 74	75,185 74	6,323,733 02	2,841,807 93	9,165,540 95
375,169 03	5,811,126 88	6,198,213 90	12,009,340 78	$33,291 68	258,829 91	292,121 59	5,844,418 56	6,457,043 81	12,301,462 37
677,120 95	12,983,951 01	4,866,257 70	17,850,208 71	130,144 43	165,067 65	295,212 08	13,114,095 44	5,031,325 35	18,145,420 79
70,336 59	1,350,572 90	513,950 63	1,864,523 53	.....	12,317 50	12,317 50	1,350,572 90	526,268 13	1,876,841 03
20,547 83	428,673 47	.....	428,673 47	.....	.....	.....	428,673 47	.....	428,673 47
180,720 48	4,260,236 12	2,064,626 34	6,324,862 46	.....	69,077 81	69,077 81	4,260,236 12	2,133,704 15	6,393,940 27
251,795 53	3,416,582 79	2,845,258 46	6,261,841 25	.....	142,853 19	142,853 19	3,416,582 79	2,988,111 65	6,404,694 44
33,149 62	551,554 00	.....	551,554 00	.....	.....	.....	551,554 00	.....	551,554 00
217,059 29	5,903,317 79	2,381,113 65	8,284,431 34	.....	73,929 30	73,929 30	5,903,317 79	2,455,042 85	8,358,360 54
2,149 38	33,754 55	39,903 52	73,658 07	.....	.....	.....	33,754 55	39,903 52	73,658 07
13,232 40	322,755 09	182,189 77	504,944 86	.....	.....	.....	322,755 09	182,189 77	504,944 86
765,186 61	16,564,700 85	7,243,743 27	23,808,444 12	.....	227,844 08	227,844 08	16,564,700 85	7,471,587 35	24,036,288 20
26,465 33	130,046 26	183,521 88	313,568 14	.....	.....	.....	130,046 26	183,521 88	313,568 14
19,395 83	467,501 26	164,190 00	631,691 26	.....	.....	.....	467,501 26	164,190 00	631,691 26
22,492 09	581,672 44	85,275 80	666,948 24	.....	.....	.....	581,672 44	85,275 80	666,948 24
83,236 76	1,815,166 39	282,526 81	2,097,693 20	.....	9,587 64	9,587 64	1,815,166 39	292,114 45	2,107,280 84
110,107 14	1,645,124 67	969,629 91	2,614,754 58	.....	.....	.....	1,645,124 67	969,629 91	2,614,754 58
57,962 24	916,499 41	414,438 73	1,330,938 14	.....	6,425 82	6,425 82	916,499 41	420,864 55	1,337,363 96
44,121 76	761,821 89	474,333 36	1,236,155 25	.....	.....	.....	761,821 89	474,333 36	1,236,155 25
43,899 76	877,666 65	372,570 73	1,250,237 38	.....	.....	.....	877,666 65	372,570 73	1,250,237 38
116,874 59	2,444,339 28	1,302,384 37	3,746,723 65	.....	.....	.....	2,444,339 28	1,302,384 37	3,746,723 65
$3,945,104 14	$75,935,316.60	$38,348,619 71	$114,283,936 31	$163,436 11	$1,165,446 20	$1,328,882 31	$76,098,752 71	$39,514,065 91	$115,612,818 62

NAME OF ROAD OR SYSTEM.	[1]Freight. Entire line.	[1]Freight. Illinois.	[2]Total Service Train. Entire line.	[2]Total Service Train. Illinois.	[3]Switching. Entire line.	[3]Switching. Illinois.	[2]Special Service Train. Entire line.	[2]Special Service Train. Illinois.	[3]Miscellaneous. Entire line.	[3]Miscellaneous. Illin
Atchison, Topeka & Santa Fe	$61,089,210 73	$4,516,170 18	$30,642,933 85	$2,071,795 50	$682,726 40	$99,201 12	$57,807 02	$2,367 25	$23,115 74	$
Chicago & Alton	8,882,610 55	6,926,766 88	4,908,710 27	3,677,694 70	211,576 69	194,247 18	3,408 78	2,793 78	11,096 56	
Chicago & Eastern Illinois	11,324,292 28	8,266,733 36	3,872,314 92	2,452,991 39	218,988 41	151,102 00	4,605 33	3,177 68	15,548 90	
Chicago & North Western	53,989,475 43	11,392,643 13	27,135,465 58	7,745,003 00	1,331,874 61	972,811 13	55,742 38	10,257 77	45,898 41	
Chicago, Burlington & Quincy	62,799,188 01	20,152,406 67	27,443,073 19	6,900,719 62	1,301,641 68	967,049 32	40,147 75	5,868 53	99,545 43	
Chicago Great Western	9,943,575 18	2,559,860 68	4,009,841 46	516,622 99	188,711 21	12,315 72	4,273 00	144 80	12,733 00	
Chicago, Milwaukee & Gary	402,014 33	402,014 33	733 38	733 38	3,057 29	3,057 29	417 76	417 76	60 89	
Chicago, Milwaukee & St. Paul	65,266,420 18	7,537,134 76	24,020,354 29	2,624,141 91	1,604,235 87	760,004 56	32,240 72	2,450 50	60,000 07	
Chicago, Rock Island & Pacific	42,348,182 47	7,014,748 25	21,888,588 62	3,909,103 58	581,594 94	263,799 28	43,293 92	4,217 31	9,280 80	
Chicago, Terre Haute & Southeastern	1,906,655 16	757,704 76	230,404 12	.....	15,150 66	.....	.....	.....	3,399 00	
Cleveland, Cincinnati, Chicago & St. Louis	22,611,555 02	6,136,776 03	10,611,285 21	2,879,902 81	631,907 73	171,499 76	25,474 74	6,913 84	11,987 29	
Kankakee & Seneca	62,409 54	62,409 54	22,114 24	22,114 24	.....	.....	.....	.....	.....	
Peoria & Eastern	1,213,414 38	454,787 71	472,961 39	177,265 93	22,526 95	8,443 11	1,297 98	486 48	611 63	
Illinois Central	43,871,271 70	19,662,661 23	17,004,337 30	3,750,422 01	739,190 67	311,133 51	33,928 21	16,320 20	3,743,848 93	537
Illinois Southern	485,447 18	274,434 06	74,554 66	60,326 00	858 00	814 00	904 72	601 36	.....	
Lake Erie & Western	4,556,123 97	608,698 21	1,053,496 10	149,747 09	65,788 58	8,789 35	2,552 44	341 00	10,519 65	
Minneapolis & St. Louis	7,142,498 46	869,882 88	2,315,657 23	105,477 17	89,446 61	2,517 49	8,298 80	2,406 26	6,768 45	
Mobile & Ohio	10,708,321 00	1,575,065 63	1,919,399 35	311,252 26	110,841 30	28,418 05	10,499 05	1,051 20	17,280 47	
St. Louis, Iron Mountain & Southern	24,504,602 51	3,674,264 43	8,041,951 74	86,170 93	292,469 77	*150* 73	21,339 52	.....	7,238 93	
Southern Railway	45,077,047 84	1,238,546 84	22,758,058 24	443,438 63	793,358 53	283,428 96	63,435 23	.....	121,250 00	
Toledo, Peoria & Western	723,351 15	723,351 15	550,901 18	550,901 18	2,430 72	2,430 72	380 00	380 00	639 00	
Toledo, St. Louis & Western	3,922,724 70	1,562,813 52	557,115 16	221,954 68	72,007 26	28,687 69	400 00	159 36	2,458 25	
Vandalia Railroad	7,577,512 84	2,990,455 92	3,392,278 29	1,706,954 91	126,842 00	28,073 39	6,420 59	3,088 53	45,078 23	21

[1]Freight.
[2]Passenger.
[3]Common—divided on Revenue Train Mile basis.

ANALYSIS OF REVENUES—ENTIRE LINE AND ILLINOIS DIVIDED BETWEEN FREIGHT AND PASSENGER AS SHOWN BELOW

Taken from Report of Carriers to State of Illinois

For Year Ended June 30, 1914.

ous. Illinois.	[5]Station and train privileges. Entire line.	Illinois.	[2]Parcel room receipts. Entire line.	Illinois.	[1]Storage—freight. Entire line.	Illinois.	[2]Storage—baggage. Entire line.	Illinois.	[1]Car service. Entire line.	Illinois.	[2]Telegraph and telephone. Entire line.	Illinois.	[2]Rents of buildings and properties. Entire line.	Illinois.	[2]Miscel Entire line.
$933 09	$93,327 06	$6,129 96	$3535 21	$155 74	$37,867 54	$2,567 16	$34,567 36	$236 20	$158,811 72	$18,504 75	$110,567 15	$1,748 88	$192,887 40	$17,602 30	$391,654 27
7,748 35	2,745 26	1,927 17	636 01	593 68	6,645 44	5,077 98	996 19	859 77	51,940 26	47,552 65	.....	.....	28,591 36	25,160 40	20,244 31
10,728 74	2,239 50	1,433 28	1,455 10	931 26	9,419 52	6,876 25	1,043 35	667 74	73,388 00	53,573 24	.....	.....	1,834 00	1,265 46	10,191 52
20,157 50	42,852 95	16,304 02	41,875 83	36,389 33	28,812 20	9,571 98	19,683 45	10,957 32	312,622 49	135,024 72	.....	.....	206,259 54	124,577 59	441,212 06
15,307 37	8,264 40	2,800 16	11,485 97	1,770 13	38,999 32	12,206 03	16,798 42	2,974 02	331,423 51	154,282 73	209,402 61	54,911 05	118,396 51	35,523 52	206,146 32
72 00	2,672 36	333 21	2,241 35	43 00	13,807 37	5,735 48	1,692 60	59 80	42,937 20	4,768 70	739 67	.....	7,430 62	.....	15,605 70
60 89	.....	.....	.....	.....	83 81	83 81	.....	.....	3,144 66	3,144 66	.....	.....	768 67	768 67	364 62
18,462 59	40,368 59	4,038 08	4,015 60	195 65	32,194 35	4,731 37	12,384 85	313 05	291,016 45	88,117 00	58,758 29	1,865 81	100,500 34	8,946 95	84,240 39
1,237 80	57,703 72	21,269 15	18,090 23	15,888 56	61,160 07	24,261 85	11,421 53	4,578 72	220,611 03	53,520 16	19,375 82	4,199 96	37,197 21	23,852 87	32,892 73
3,399 00	133 84	.....	.....	.....	276 95	.....	5 50	.....	5,157 00	1,719 00	.....	.....	55 67	.....	433 29
3,253 35	10,193 97	2,766 64	1,564 70	424 66	22,800 20	6,187 97	2,397 66	650 72	219,497 47	59,571 62	1,946 24	528 21	9,424 65	2,557 85	82,368 64
.....	.....	.....	1 25	1 25	36 61	36 61	2 00	2 00	116 00	116 00	4 55	4 55	.....	.....	12 00
229 24	389 73	146 07	103 75	38 88	1,947 35	729 87	53 45	20 03	8,737 44	3,274 80	103 82	38 90	164 80	61 77	18,342 93
537,012 21	85,142 90	55,562 90	27,504 00	23,177 80	61,599 07	11,563 60	13,011 68	6,479 83	217,166 66	111,724 27	.....	.....	67,806 95	36,652 78	35,238 83
.....	101 20	73 76	.....	.....	194 11	170 06	1 60	1 35	2,508 00	2,097 00	1,053 95	882 25	517 92	286 00	769 37
1,405 43	1,859 84	284 47	302 26	40 38	3,160 71	422 27	142 70	19 06	38,752 30	5,177 31	387 67	51 79	766 75	102 44	7,482 23
337 00	8,706 34	307 43	186 90	10 50	4,748 07	3,213 80	749 20	11 80	19,986 34	1,616 25	1,284 59	46 53	13,076 74	636 25	3,494 56
789 69	5,611 36	1,153 58	76 05	5 40	6,907 13	438 86	961 71	73 85	76,017 64	39,336 00	.....	.....	31,370 46	3,872 48	78,343 29
2,597 46	12,210 75	668 62	343 30	37 00	18,574 02	128 70	1,888 44	16 55	141,833 70	14,623 00	6,304 31	76 03	43,029 14	4,160 28	70,388 26
157 63	61,157 92	780 00	13,456 95	154 35	79,003 74	965 98	5,864 24	18 45	174,570 39	11,093 00	22 55	.....	39,455 40	148 01	61,431 89
639 99	654 33	654 33	333 15	333 15	963 36	963 36	60 15	60 15	5,972 00	5,972 00	2,926 43	2,926 43	3,668 85	3,668 85	1,328 43
979 37	348 10	138 68	.....	.....	981 87	391 18	55 25	22 01	19,703 00	7,849 67	1,665 92	663 70	7,194 32	2,817 23	2,439 69
21,541 52	3,125 48	2,243 22	3,640 45	2,305 75	4,343 18	2,003 36	503 55	290 88	47,008 78	18,551 86	10,885 28	4,114 30	2,809 55	1,153 33	25,985 37

Tot

rties. nois.	[2]Miscellaneous. Entire line.	[2]Miscellaneous. Illinois.	[2]Dr. and Cr. joint facilities. Entire line.	[2]Dr. and Cr. joint facilities. Illinois.	Total all revenue. Entire line.	Total all revenue. Illinois.	Division—freight and passenger. Entire line. Freight.	Entire line. Passenger.	Entire line. Total.	Illinois. Freight.	Illinois. Passenger.	Illinois. Total.
602 30	$391,654 27	$30,418 78	$21,256 74	$3,974 81	$93,540,268 19	$6,771,805 72	$62,295,319 22	$31,244,948 97	$93,540,268 19	$4,660,091 38	$2,111,714 34	$6,771,805 72
160 40	20,244 31	18,045 83	27,073 35	14,721 64	14,156,275 03	10,923,190 01	9,195,153 36	4,961,121 67	14,156,275 03	7,204,702 97	3,718,487 04	10,923,190 01
265 46	10,191 52	7,032 15	8,964 85	5,737 40	15,544,285 68	10,962,249 95	11,645,556 33	3,898.729 35	15,544,285 68	8,492,209 51	2,470,040 44	10,962,249 95
577 59	441,212 06	24,689 35	25,275 86	439 87	83,677,050 79	20,498,826 71	55,989,265 55	27,687,785 24	83,677,050 79	13,568,654 15	7,930,172 56	20,498,826 71
523 52	206,146 32	92,572 15	126,421 03	50,209 33	92,750,934 15	28,448,600 63	64,844,445 25	27,906,488 90	92,750,934 15	21,421,066 93	7,027,533 70	28,448,600 63
.....	15,605 70	8,115 14	14,260 97	.....	14,260,521 69	3,108,072 52	10,212,938 53	4,047,583 16	14,260,521 69	2,587,199 24	520,873 28	3,108,072 52
768 67	364 62	364 62	.....	.....	410,645 41	410,645 41	409,494 27	1,151 14	410,645 41	409,494 27	1,151 14	410,645 41
946 95	84,240 39	22,620 90	175,960 75	33,398 04	91,782,690 74	11,106,421 17	67,446,254 51	24,336,436 23	91,782,690 74	8,431,287 19	2,675,133 98	11,106,421 17
852 87	32,892 73	8,412 82	59,120 31	200 20	65,388,503 40	11,376,290 51	43,285,488 67	22,103,014 73	65,388,503 40	7,397,763 25	3,978,527 26	11,376,290 51
.....	433 29	.....	386 52	.....	2,162,057 71	762,822 76	1,929.842 50	232,215 21	2,162,057 71	762,822 76	.....	762,822 76
557 85	82,368 64	22,354 85	42,894 26	11,641 50	34,285,297 78	9,305,029 81	23,560,888 37	10,724,409 41	34,285.297 78	6,394,425 11	2,910,604 70	9,305.029 81
.....	12 00	12 00	.....	.....	84,696 19	84,696 19	62,571 12	22,125 07	84,696 19	62,571 12	22,125 07	84,696 19
61 77	18,342 93	6,874 93	1,699 69	637 05	1,742,355 29	653,034 77	1,257,773 83	484,581 46	1,742,355 29	471,413 65	181,621 12	653,034 77
652 78	35,238 83	13,722 53	*26,346 88*	*13,470 76*	65,873,700 02	29,522,962 11	47,109,348 44	18,764,351 58	65,873,700 02	20,316,548 38	9,206,413 73	29,522,962 11
286 00	769 37	546 87	.....	.....	566,910 71	340,232 71	490,139 05	76,771 66	566,910 71	278,232 04	62,000 67	340,232 71
102 44	7,482 23	999 63	2,313 50	309 09	5,743,648 70	767,351 52	4,676,514 21	1,067,134 49	5,743,648 70	624,782 35	142,569 17	767,351 52
636 25	3,494 56	177 48	5,981 80	.....	9,620,884 09	986,640 84	7,273,978 07	2,346,906 02	9,620,884 09	878,092 81	108,548 03	986,640 84
872 48	78,343 29	12,927 02	9,801 91	1,450 34	12,975,430 72	1,975,834 36	10,998,952 41	1,976,478 31	12,975,430 72	1,658,097 95	317,736 41	1,975,834 36
160 28	70,388 26	1,033 73	9,685 26	499 37	33,171,859 65	3,784,125 37	25,028,426 55	8,143,433 10	33,171,859 65	3,695,815 76	88,309 61	3,784,125 37
148 01	61,431 89	5,884 35	286,584 32	1,403 81	69,533,697 24	1,986,020 00	46,359,421 47	23,174.275 77	69,533,697 24	1,538,259 96	447,760 04	1,986,020 00
668 85	1,328 43	1,328 43	.....	.....	1,293,608 75	1,293,608 75	736,157 73	557,451 02	1,293,608 75	736,157 73	557,451 02	1,293,608 75
877 23	2,439 69	971 97	1,027 08	409 19	4,588,120 60	1,827,907 25	4,025,812 35	562,308 25	4,588,120 60	1,603,883 64	224,023 61	1,827,907 25
153 33	25,985 37	1,995 42	8,801 58	4,944 28	11,255,235 17	4,787,716 67	7,803,871 40	3,451,363 68	11,255,235 17	3,055,283 98	1,732,432 69	4,787,716 67
	Total, 23 roads.....				$724,408,677 70	$161,684,085 74	$506,637,613 28	$217,771,064 42	$724,408,677 70	$115,248,856 13	$46,435,229 61	$161,684,085 74

AUXILIARY REVENUE—ENTIRE LINE AND ILLINOIS—23 ROADS.

YEAR ENDED JUNE 30, 1914.

NAME OF ROAD OR CARRIER.	Parlor and Chair Car.	Dining and Special Car.	Hotels and Restaurants.	Magazine.	Stock Yards.	Harbor Terminal Transfers.	Grain Elevators.	Sundry Freight.	Freight.	Passenger.	Tot Entire
Atchison, Topeka & Santa Fe											
Chicago & Alton		$121,538 31	$2,886 70							$124,425 01	$12
Chicago & Eastern Illinois										89,339 25	8
Chicago & North Western	$275,112 52	432,582 99	125,468 66		$49,119 75				$49,119 75	833,164 17	83
Chicago, Burlington & Quincy		601,722 92	70,900 22		263,583 77				263,583 77	672,623 14	93
Chicago Great Western		81,698 70	578 20							89,216 90	8
Chicago, Milwaukee & Gary											
Chicago, Milwaukee & St. Paul	1,169,581 75	631,354 05	2,693 10							1,803,428 90	1,80
Chicago, Rock Island & Pacific		450,154 67								459,754 67	45
Chicago, Terre Haute & Southeastern			8,231 73							8,231 73	
Cleveland, Cincinnati, Chicago & St. Louis		367,286 50						$29,319 21	29,319 21	367,286 50	39
Kankakee & Seneca											
Peoria & Eastern											
Illinois Central		315,188 65	111,118 72	$9,840 60			$63,654 64		63,654 64	436,147 97	49
Illinois Southern											
Lake Erie & Western											
Minneapolis & St. Louis		776 15								776 17	
Mobile & Ohio		27,151 81								2,151 81	2
St. Louis, Iron Mountain & Southern		161,337 18					13,520 39		13,520 39	104,337 18	11
Southern Railway		515,198 73				$702,100 78			502,100 78	515,198 73	1,21
Toledo, Peoria & Western											
Toledo, St. Louis & Western											
Vandalia Railroad											
Total, 23 roads									$1,121,298 54	$5,531,082 13	$6,65

Entire line and Illinois figures from reports of carriers to the State of Illinois.
Division betwen freight and passenger made as follows:
Columns 1, 3, 3 and 4, passenger.
Columns 5, 6, 7 and 8, freight.

Total Entire Line.	Illinois. Total.	Proportion Passenger to Total.	Illinois. Freight.	Illinois. Passenger.	Operating Revenue. Entire Line. Freight.	Entire Line. Passenger.	Illinois. Freight.	Illinois. Passenger.	Grand Total. Illinois. Freight.	Grand Total. Entire Line. Passenger.	Grand Total. Total.	
.....	.....	.....	.....	.....	$62,295,319 22	$31,244,948 97	$4,660,091 38	$2,111,714 34	$62,295,319 22	$31,244,948 97	$93,540,268 19	
$124,425 01	$93,700 13	.....	.....	$93,700 13	9,195,153 36	4,961,121 67	7,204,702 97	3,718,487 04	9,195,153 36	5,085,546 68	14,280,700 04	
89,339 25	57,177 12	.....	.....	57,377 12	11,645,556 33	3,898,725 35	8,492,209 51	2,470,040 44	11,645,556 33	3,988,048 60	15,633,624 93	
882,283 92	328,116 27	94.43	$18,276 08	309,840 19	55,989,265 55	27,687,785 24	12,568,654 15	7,930,172 56	56,038,385 30	28,520,949 47	84,559,334 71	
936,206 91	309,332 94	71.85	87,077 22	222,255 72	64,844,445 25	27,906,488 90	21,421,066 93	7,027,533 70	65,108,029 02	28,579,112 06	93,687,141 06	
89,216 90	11,633 89	.....	.....	11,633 89	10,232,938 53	4,047,583 16	2,587,199 24	520,873 28	10,212,938 53	4,136,800 06	14,349,738 59	
.....	.....	.....	.....	.....	409,494 27	1,151 14	409,494 27	1,151 14	409,494 27	1,151 14	410,645 41	
1,803,428 90	92,103 11	.....	.....	92,103 11	67,446,254 51	24,336,436 23	8,431,287 19	2,675,133 98	67,446,254 51	26,139,865 13	93,586,119 64	
459,754 67	108,456 25	.....	.....	108,456 25	43,285,488 67	22,103,014 73	7,397,763 25	3,978,527 26	43,285,489 67	22,562,769 40	65,848,258 07	
8,231 73	.....	.....	.....	.....	1,929,842 50	232,215 21	762,822 76	.....	1,929,842 50	240,446 94	2,170,289 44	
396,605 71	107,638 79	92.61	7,954 51	99,684 28	23,560,588 37	10,724,409 41	6,394,425 11	2,910,604 70	23,590,207 58	11,091,695 91	34,681,903 49	
.....	.....	.....	.....	.....	32,571 12	22,125 07	62,571 12	22,125 07	62,571 12	22,125 07	84,696 19	
.....	.....	.....	.....	.....	1,257,773 83	48,581 46	471,413 65	181,621 12	1,257,773 83	484,681 46	1,742,355 29	
499,802 61	235,188 10	87.26	29,962 96	205,225 14	47,109,348 44	12,764,351 58	20,316,548 38	9,206,413 73	47,173,003 08	8,200,499 55	66,373,502 63	
.....	.....	.....	.....	.....	490,139 05	76,771 66	278,232 04	62,000 67	490,139 05	76,771 66	566,910 71	
.....	.....	.....	.....	.....	4,676,514 21	1,067,134 49	624,782 35	142,569 17	4,676,514 21	1,067,154 49	5,743,648 70	
776 17	.....	.....	.....	.....	273,978 07	2,346,906 02	878,092 81	108,548 03	273,978 07	2,349,682 19	9,621,660 26	
27,151 81	5,620 42	.....	.....	5,620 42	10,998,952 41	1,976,478 31	1,658,097 95	317,736 41	10,998,952 41	2,003,630 12	13,002,582 53	
117,857 57	.....	.....	.....	.....	25,028,426 55	8,743,433 10	3,695,815 76	88,309 61	25,041,946 94	8,247,780 28	33,289,717 22	
1,217,299 51	5,895 37	42.32	3,400 45	2,494 92	46,359,421 47	23,174,275 75	1,538,259 96	447,760 04	41,061,522 25	23,688,474 50	70,750,996 75	
.....	.....	.....	.....	.....	736,157 73	557,451 02	736,157 73	557,451 02	36,157 73	557,451 02	1,293,608 75	
.....	.....	.....	.....	.....	4,025,812 35	56,308 25	1,603,883 64	224,023 61	4,025,812 35	562,308 25	4,388,120 60	
.....	.....	.....	.....	.....	7,803,871 49	3,451,363 68	3,055,283 98	1,732,432 69	803,871 49	3,451,363 68	11,255,235 17	
$6,652,380 67	$1,354,862 39	.....	$146,671 22	$1,208,191 17	$506,637,613 28	$217,771,064 42	$115,248,856 13	$46,435,229 61	$507,758,911 82	$223,302,146 55	$731,061,058 37	$11

ALL RAILWAY OPERATIN REVENUES:

nger.	Operating Revenue. Entire Line. Freight.	Entire Line. Passenger.	Illinois. Freight.	Illinois. Passenger.	Grand Total. Entire Line. Freight.	Grand Total. Entire Line. Passenger.	Total.	Illinois. Freight.	Illinois. Passenger.	Total.
.....	$62,295,319 22	$31,244,948 97	$4,660,091 38	$2,111,714 34	$62,295,319 22	$31,244,948 97	$93,540,268 19	$4,660,091 38	$2,111,714 34	$6,771,805 72
93,700 13	9,195,153 36	4,961,121 67	7,204,702 97	3,718,487 04	9,195,153 36	5,085,546 68	14,280,700 04	7,204,702 97	3,812,187 17	11,016,890 14
57,377 12	11,645,556 33	3,898,725 35	8,492,209 51	2,470,040 44	11,645,556 33	3,988,048 60	15,633,624 93	8,492,209 51	2,527,217 56	11,019,427 07
09,840 19	55,989,265 55	27,687,785 24	12,568,654 15	7,930,172 56	56,038,385 30	28,520,949 47	84,559,334 71	12,586,930 23	8,240,012 75	20,826,942 98
22,255 72	64,844,445 25	27,906,488 90	21,421,066 93	7,027,533 70	65,108,029 02	28,579,112 06	93,687,141 06	21,508,144 15	7,249,789 42	28,757,933 57
11,633 89	10,232,938 53	4,047,583 16	2,587,199 24	520,873 28	10,212,938 53	4,136,800 06	14,349,738 59	2,587,199 24	532,507 17	3,119,706 41
.....	409,494 27	1,151 14	409,494 27	1,151 14	409,494 27	1,151 14	410,645 41	409,494 27	1,151 14	410,645 41
92,103 11	67,446,254 51	24,336,436 23	8,431,287 19	2,675,133 98	67,446,254 51	26,139,865 13	93,586,119 64	8,431,287 19	2,767,227 09	11,198,524 28
08,456 25	43,285,488 67	22,103,014 73	7,397,763 25	3,978,527 26	43,285,489 67	22,562,769 40	65,848,258 07	7,397,763 25	4,086,983 51	11,484,746 76
.....	1,929,842 50	232,215 21	762,822 76	.....	1,929,842 50	240,446 94	2,170,289 44	762,822 76	.....	762,822 76
99,684 28	23,560,588 37	10,724,409 41	6,394,425 11	2,910,604 70	23,590,207 58	11,091,695 91	34,681,903 49	6,402,379 62	3,010,288 98	9,412,668 60
.....	32,571 12	22,125 07	62,571 12	22,125 07	62,571 12	22,125 07	84,696 19	62,571 12	22,125 07	84,696 19
.....	1,257,773 83	48,581 46	471,413 65	181,621 12	1,257,773 83	484,681 46	1,742,355 29	471,413 65	181,621 12	653,034 77
05,225 14	47,109,348 44	12,764,351 58	20,316,548 38	9,206,413 73	47,173,003 08	8,200,499 55	66,373,502 63	20,346,511 34	9,411,638 87	29,758,150 21
.....	490,139 05	76,771 66	278,232 04	62,000 67	490,139 05	76,771 66	566,910 71	278,232 04	62,000 67	340,232 71
.....	4,676,514 21	1,067,134 49	624,782 35	142,569 17	4,676,514 21	1,067,154 49	5,743,648 70	624,782 35	142,569 17	767,351 52
.....	273,978 07	2,346,906 02	878,092 81	108,548 03	273,978 07	2,349,682 19	9,621,660 26	878,092 81	108,548 03	986,640 84
5,620 42	10,998,952 41	1,976,478 31	1,658,097 95	317,736 41	10,998,952 41	2,003,630 12	13,002,582 53	1,658,097 95	323,356 83	1,981,454 78
.....	25,028,426 55	8,743,433 10	3,695,815 76	88,309 61	25,041,946 94	8,247,780 28	33,289,717 22	3,695,815 76	88,309 61	3,784,125 37
2,494 92	46,359,421 47	23,174,275 75	1,538,259 96	447,760 04	41,061,522 25	23,688,474 50	70,750,996 75	1,541,660 41	450,254 96	1,991,915 37
.....	736,157 73	557,451 02	736,157 73	557,451 02	36,157 73	557,451 02	1,293,608 75	736,157 73	557,451 02	1,293,608 75
.....	4,025,812 35	56,308 25	1,603,883 64	224,023 61	4,025,812 35	562,308 25	4,388,120 60	1,603,883 64	224,023 61	827,907 25
.....	7,803,871 49	3,451,363 68	3,055,283 98	1,732,432 69	803,871 49	3,451,363 68	11,255,235 17	3,055,283 98	1,732,432 69	4,787,716 67
08,191 17	$506,637,613 28	$217,771,064 42	$115,248,856 13	$46,435,229 61	$507,758,911 82	$223,302,146 55	$731,061,058 37	$115,295,527 35	$47,643,420 78	$163,038,948 13

ALLOCATION OF COMMON ITEMS OF REVENUE FROM TRANSPORTATION AND REVENUE FROM OPERATIONS OTHER THAN TRANSPORTATION, BETWEEN FREIGHT AND PASSENGER, ON REVENUE TRAIN MILE BASIS. TOTAL FIGURES TAKEN FROM REPORTS OF CARRIERS TO THE STATE OF ILLINOIS.

YEAR ENDED JUNE 30, 1914—23 ROADS—ENTIRE LINE.

	Miscellaneous. Total.	Telegraph and Telephone. Total.	Rents of Buildings and Properties. Total.	Miscellaneous. Total.	Joint Facilities. Total.	Grand Total. Freight.	Passenger.	Total.	Revenue Train Miles. % Freight.	% Passenger.
Atchison, Topeka & Santa Fe	$23,115 74	$110,567 15	$192,887 40	$391,654 27	$21,256 74	$326,702 83	$412,778 47	$739,481 30	44.18	55.82
Chicago & Alton	11,096 56	.....	28,591 36	20,244 31	27,073 35	42,380 42	44,625 16	87,005 58	48.71	51.29
Chicago & Eastern Illinois	15,548 90	.....	1,834 00	10,191 52	8,964 85	19,468 12	17,071 15	36,539 27	53.28	46.72
Chicago & North Western	45,898 41	.....	206,259 54	441,212 06	25,275 86	326,480 82	392,165 05	718,645 87	45.43	54.57
Chicago, Burlington & Quincy	99,545 43	209,402 61	118,396 51	206,146 32	126,421 03	373,192 73	386,719 17	759,911 90	49.11	50.89
Chicago Great Western	12,733 00	739 67	7,430 62	15,605 70	14,260 97	23,907 57	26,862 39	50,769 96	47.09	52.91
Chicago, Milwaukee & Cary	60 89	.....	768 67	364 62	.....	1,194 18	.....	1,194 18	100.00	.....
Chicago, Milwaukee & St. Paul	60,000 07	58,758 29	100,500 34	84,240 39	175,960 75	252,387 66	227,072 18	479,459 84	52.64	47.36
Chicago, Rock Island & Pacific	9,280 80	19,375 82	37,187 21	32,892 73	59,120 31	73,940 16	83,916 71	157,856 87	46.84	53.16
Chicago, Terre Haute & Southeastern	3,399 00	.....	55 67	433 29	386 52	2,602 73	1,671 75	4,274 48	60 89	39 11
Cleveland, Cincinnati, Chicago & St. Louis	11,987 29	1,946 24	9,424 65	82,368 64	42,894 26	75,127 95	73,493 13	148,621 08	50.55	49.45
Kankakee & Seneca	.....	4 55	.....	12 00	.....	8 97	7 58	16 55	54.17	45.83
Peoria & Eastern	611 63	103 82	164 80	18,342 93	1,699 69	11,147 71	9,775 16	20,922 87	53.28	46.72
Illinois Central	3,743,848 93	.....	67,806 95	35,238 83	cr. 26,346 88	2,220,120 34	1,600,427 49	3,820,547 83	58.11	41.89
Illinois Southern	.....	1,053 95	517 92	769 37	.....	1,131 76	1,209 48	2,341 24	48 34	51 66
Lake Erie & Western	10,519 65	387 67	766 75	7,482 23	2,313 50	12,688 65	8,781 15	21,469 80	59.10	40.90
Minneapolis & St. Louis	6,768 45	1,284 59	13,076 74	3,494 56	5,981 80	17,298 59	13,307 55	30,606 14	56.52	43.48
Mobile & Ohio	17,280 47	.....	31,370 46	78,343 29	9,301 91	96,865 34	39,930 79	136,796 13	70.81	29.19
St. Louis, Iron Mountain & Southern	7,238 93	6,304 31	43,029 14	70,388 26	9,685 26	70,946 55	65,699 35	136,645 90	51.92	48.08
Southern Railway	121,250 00	22 55	39,455 40	61,431 89	285,584 32	235,440 97	272,303 19	507,744 16	46.37	53.63
Toledo, Peoria & Western	639 00	2,926 43	3,668 85	1,328 43	.....	3,440 50	5,122 21	8,562 71	40.18	59.82
Toledo, St. Louis & Western	2,458 25	1,665 92	7,194 32	2,439 69	1,027 08	10,395 52	4,389 74	14,785 26	70.31	29.69
Vandalia Railroad	45,078 23	10,885 23	2,809 55	25,985 37	8,801 58	48,164 69	45,395 32	93,560 01	51.48	48.52
Total, 23 roads	$4,248,359 63	$425,428 85	$913,196 85	$1,59[illegible],610 70	$800,162 90	$4,245,034 76	$3,732,724 71	$7,977,758 93		

ALLOCATION OF COMMON ITEMS OF REVENUE FROM TRANSPORTATION AND REVENUE FROM OPERATIONS OTHER THAN TRANSPORTATION, BETWEEN FREIGHT AND PASSENGER, ON REVENUE TRAIN MILE BASIS. TOTAL FIGURES TAKEN FROM REPORTS OF CARRIERS TO THE STATE OF ILLINOIS.

YEAR ENDED JUNE 30, 1914—23 ROADS—ILLINOIS.

	Miscellaneous. Total.	Telegraph and Telephone. Total,	Rents of Buildings and Properties. Total.	Miscellaneous. Total.	Joint Facilities Total.	Freight.	Grand Total. Passenger.	Total.	Revenue Train Miles. %Freight.	%Passenger.
Atchison, Topeka & Santa Fe	$ 933 09	$ 1,748 88	$ 17,602 30	$30,418 78	$ 3,974 81	$ 54,677 86	$ 23,648 17	$ 31,029 69	43 25	56.75
Chicago & Alton	7,748 35	.....	25,160 40	18,045 83	14,721 64	65,676 22	31,058 28	34,617 94	47.29	52.71
Chicago & Eastern Illinois	10,728 74	.....	1,265 46	7,032 15	5,737 40	24,763 75	13,924 66	10,839 09	56.23	43.77
Chicago & North Western	20,157 50	.....	124,577 59	24,689 35	439 87	169,864 31	58,603 19	111,261 12	34.50	65.50
Chicago, Burlington & Quincy	15,307 37	54,911 05	35,523 52	92,572 15	50,209 33	248,532 42	135,122 18	113,401 24	54.37	45.63
Chicago Great Western	72 00	.....	.....	8,115 14	.....	8,187 14	4,517 66	3,669 48	55.18	44.82
Chicago, Milwaukee & Gary	60 89	.....	768 67	364 62	.....	1,194 18	.....	1,194 18	100.00	.....
Chicago, Milwaukee & St. Paul	18,462 59	1,865 81	8,946 95	22,620 90	33,398 04	85,294 29	41,299 50	43,994 79	48.42	51.58
Chicago, Rock Island & Pacific	1,237 80	4,199 96	23,852 87	8,412 82	200 20	37,903 65	14,433 71	23,469 94	38.08	61.92
Chicago, Terre Haute & Southeastern	3,399 00	.....	.....	.....	.....	3,399 00	.....	3,399 00	100.00	.....
Cleveland, Cincinnati, Chicago & St. Louis	3,235 35	528 21	2,557 85	22,354 85	11,641 50	40,335 76	20,389 73	19,946 03	50.55	49.45
Kankakee & Seneca	.....	4 55	.....	12 00	.....	16 55	8 97	7 58	54.18	45.82
Peoria & Eastern	229 24	38 90	61 77	6,874 93	637 05	7,841 89	4,178 16	3,663 73	53.28	46.72
Illinois Central	537,012 21	.....	36,652 78	13,722 53	cr. 13,470 76	573,916 76	219,465 77	354,450 99	38.24	61.76
Illinois Southern	.....	882 25	286 00	546 87	.....	1,715 12	716 92	998 20	41.80	58.20
Lake Erie & Western	1,405 43	51 79	102 44	999 63	309 09	2,868 38	1,695 21	173 17	59.10	40.90
Minneapolis & St. Louis	337 00	46 53	636 25	177 48	.....	1,197 26	862 39	334 87	72.03	27.97
Mobile & Ohio	789 69	.....	3,872 48	12,927 02	1,450 34	19,039 53	14,839 41	4,200 12	77.94	22.06
St. Louis, Iron Mountain & Southern	2,597 46	76 03	4,160 28	1,033 73	499 37	8,366 87	6,950 36	1,416 51	83.07	16.93
Southern Railway	157 63	.....	148 01	5,884 35	1,403 81	7,593 80	4,225 19	3,368 61	55.64	44.36
Toledo, Peoria & Western	639 00	2,926 43	3,668 85	1,328 43	.....	8,562 71	3,440 50	5,122 21	40.18	59.82
Toledo, St. Louis & Western	979 37	663 70	2,866 23	971 97	409 19	5,890 46	4,141 58	1,748 88	70.31	29.69
Vandalia Railroad	21,541 52	4,114 30	1,153 33	1,995 42	4,944 28	33,748 85	16,199 45	17,549 40	48.00	52.00
Total, 23 roads	$647,049 23	$72,058 39	$293,864 03	$281,100 95	$116,505 16	$1,410,577 76	$624,314 17	$786,263 59		

DETAIL OF HIRE OF EQUIPMENT CREDIT BALANCE AND OTHER CREDITS FROM RAILWAY OPTRATI

YEAR ENDED JUNE 30, 1914.

NAME OF ROAD OR SYSTEM.	Income from Lease of Road.		Joint Facilities Rent Income.		Miscellaneous Rent Income.		Other Items from Property Investment.		Other Passenger Train Car	
	Entire line.	Illinois.	Entire line.	Illinois.	Entire line.	Illinois.	Entire line.	Illinois.	Entire line.	Illinois.
Atchison, Topeka & Santa Fe	.....	.....	$719,730 69	$67,970 12	$92,569 70	$61,264 21	.....	.....	.....	.....
Chicago & Alton	.....	.....	57,091 56	53,229 40	.....	.....	.....	.....	.....	.....
Chicago & Eastern Illinois	$6,465 72	.....	355,484 74	183,633 36	.....	.....	$70 00	$70 00	*$22,217 24*	*$15,299*
Chicago & North Western	.....	.....	99,317 60	27,770 36	95,029 48	57,115 71	.....	.....	.....	.....
Chicago, Burlington & Quincy	2,882 02	$2,760 79	455,570 51	87,387 31	142,708 06	86,505 91	.....	.....	.....	.....
Chicago Great Western	.....	.....	34,807 68	4,340 89	46,954 94	3,347 56	442 60	77 64	.....	.....
Chicago, Milwaukee & Gary	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Chicago, Milwaukee & St. Paul	.....	.....	253,485 76	7,065 00	149,061 28	500 97	.....	.....	5,990 55	693
Chicago, Rock Island & Pacific	3,333 34	.....	346,091 13	162,623 26	110,531 03	35,444 56	390 17	45 00	.....	.....
Chicago, Terre Haute & Southeastern	.....	.....	14,533 27	14,092 07	4,874 29	1,115 46	2,021 50	.....	57 92	.....
Cleveland, Cincinnati, Chicago & St. Louis	.....	.....	385,515 44	226,389 27	141,092 80	19,114 43	58,093 59	17,038 85	.....	.....
Kankakee & Seneca	.....	.....	.....	.....	405 05	405 05	76 00	76 00	.....	.....
Peoria & Eastern	.....	.....	9,234 13	9,192 90	3,685 41	1,073 17	374 32	116 56	.....	.....
Illinois Central	.....	.....	1,341,074 48	558,764 42	178,624 45	91,386 46	643 00	281 00	206,462 60	107,071
Illinois Southern	.....	.....	50 00	20 00	189 40	129 12	.....	.....	.....	.....
Lake Erie & Western	.....	.....	95,598 93	870 00	10,660 27	1,424 21	12,620 12	202 74	.....	.....
Minneapolis & St. Louis	63,308 66	193 50	109,057 37	.....	808 05	28 14	.....	.....	.....	.....
Mobile & Ohio	.....	.....	40,314 71	679 25	5,783 36	80 00	5,598 29	.....	.....	.....
St. Louis, Iron Mountain & Southern	.....	.....	299,329 83	248,906 09	479 32	29 14	579 66	.....	.....	.....
Southern Railway	65,000 00	.....	212,112 35	.....	110,291 69	61,462 66	122 25	.....	.....	.....
Toledo, Peoria & Western	7,000 00	7,000 00	37,742 74	37,742 74	772 91	772 91	.....	.....	*460 78*	*460*
Toledo, St. Louis & Western	.....	.....	22,229 87	350 57	.....	.....	.....	.....	.....	.....
Vandalia Railroad	.....	.....	26,518 83	2,702 97	8,462 20	4,000 00	.....	.....	.....	.....
Total, 23 roads	$147,989 74	$9,954 29	$4,914,891 62	$1,693,729 98	$1,102,983 69	$425,199 67	$81,031 50	$17,907 79	$189,833 05	$92,004

Proportioned between Freight and Passenger as follows:

Income from Lease of Road.
Joint Facilities Rent Income.
Miscellaneous Rent Income.
Other Items from Property Investment.
} Revenue Train Mile Basis.

Sleeping Ca
Other Pass
Freight Ca
Work Cars
Locomotive

Entire Line Figures same as used by Wettling.

Illinois Figures from Report of Carriers to State of Illinois for Income From Lease of Road, Joint Facility Rent Income, Miscellaneous Rent Income and Other Items from Property Investment; Sleeping Cars, Other Passenger Train Cars, Freight Cars, Work Cars and Locomotives being a proportion of the Entire Line figures based upon the Illinois Mileage to the Total Mileage of the respective classes of cars.

D OTHER CREDITS FROM RAILWAY OPTRATIONS—23 ROADS—ENTIRE LINE AND STATE OF ILLINOIS.

YEAR ENDED JUNE 30, 1914.

	Other Items from Property Investment.		Other Passenger Train Cars.		Freight Cars.		Work Cars.		Locomotives.		Total.	
	Entire line.	Illinois.	Entire line.	Illinois.	Entire line.	Illinois.	Entire line.	Illinois.	Entire line.	Illinois.	Entire line.	Illinois.
1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	$812,300 39	129,234 33
.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	57,091 56	53,329 40
.	$70 00	$70 00	*$22,217 24*	*$15,299 68*	$259,901 67	$178,978 71	$16,887 07	$11,629 11	$3,340 96	$2,300 72	619,932 92	361,312 22
1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	194,347 08	84,886 07
1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	601,160 59	1[illegible],654 01
6	442 60	77 64	.....	.....	.....	.....	.....	.....	.....	.....	82,205 22	7,766 09
.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
7	.....	.....	5,990 55	693 34	*521,207 63*	*62,367 70*	552,255 46	$2,750 96	235,597 49	36,772 06	675,182 91	15,414 63
6	390 17	45 00	.....	.....	.....	.....	.....	.....	.....	.....	460,345 67	198,112 82
6	2,021 50	.....	57 92	.....	455,624 16	266,294 12	499 72	93 52	1,494 04	319 92	479,054 90	281,915 09
3	58,093 59	17,038 85	.....	.....	.....	.....	.....	.....	.....	.....	584,701 83	262,542 55
5	76 00	76 00	.....	.....	.....	.....	.....	.....	.....	.....	481 05	481 05
7	374 32	116 56	.....	.....	.....	.....	.....	.....	.....	.....	13,293 86	10,382 63
6	643 00	281 00	206,462 60	107,071 50	*145,837 15*	*72,974 02*	7,698 41	2,523 61	42,206 25	20,905 60	1,630,872 04	707,958 57
2	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	239 40	149 12
1	12,620 12	202 74	.....	.....	.....	.....	.....	.....	.....	.....	118,879 32	2,496 95
4	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	173,174 08	221 64
0	5,598 29	.....	.....	.....	.....	.....	.....	.....	.....	.....	51,696 36	759 25
4	579 66	.....	.....	.....	.....	.....	.....	.....	.....	.....	300,388 81	248,935 33
6	122 25	.....	.....	.....	.....	.....	.....	.....	.....	.....	387,526 29	61,462 66
1	.....	.....	*460 78*	*460 78*	59,137 26	59,137 26	206 25	206 25	.....	.....	104,398 38	104,398 38
.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	22,229 87	350 57
0	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	34,981 03	6,702 97
7	$81,031 50	$17,907 79	$189,833 05	$92,004 38	$107,618 31	$369,068 37	$577,496 91	$47,203 45	$282,638 74	$60,298 30	$7,404,483 56	$2,715,366 23

oned between Freight and Passenger as follows:

vestment. } Revenue Train Mile Basis.

Sleeping Cars	Passenger—direct.
Other Passenger Train Cars	Passenger—direct.
Freight Cars	Freight—direct.
Work Cars	Freight—direct.
Locomotives	Revenue Locomotive Mile Basis.

scellaneous
nd Locomo-
f cars.

Freight	4,673,086 63	1,815,768 40
Passenger	2,731,396 93	899,597 83

DETAIL OF HIRE OF EQUIPMENT DEBIT BALANCE AND OTHER

YEAR ENDED JU

NAME OF ROAD OF CARRIER	Deductions For Lease of Road. Entire Line.	Illinois.	Joint Facilities Rent Deductions. Entire Line.	Illinois.	Miscellaneous Rent Deductions.. Entire Line...	Illinois.	Other Items. Detail.	Entire Line.	Illinois.
Atchison, Topeka & Santa Fe	$91,282 23	.....	$725,990 48	$173,720 76	$64,929 73	$599 00	.....	.....	.....
Chicago & Alton	9,000 00	$9,000 00	192,799 61	107,653 89	6,473 28	6,229 41	.....	.....	.....
Chicago & Eastern Illinois	.....	.....	761,895 47	677,485 71	1,006 15	628 70	.....	.....	.....
Chicago & North Western	179,200 26	(w)108,739 05	280,628 86	109,169 06	90,661 13	18,063 61	.....	.....	.....
Chicago, Burlington & Quincy	.....	.....	1,037,047 40	339,626 97	16,645 57	4,601 00	Commission, Interest, etc., on Funded Debt.....	.....	.....
Chicago Great Western	.....	.....	560,507 28	305,553 29	32,342 26	31,303 76	.....	$5,914 27	Road Bas
Chicago, Milwaukee & Gary	.....	.....	15,524 49	15,524 49	414 15	414 15	.....	.....	.....
Chicago, Milwaukee & St. Paul	.....	.....	750,152 82	203,496 03	15,209 98	.....	.....	.....	.....
Chicago, Rock Island & Pacific	341,305 91	.....	1,415,931 46	34,497 00	4,684 61	396 78	.....	7,362 00	$522 00
Chicago, Terre Haute & Southeastern	.....	.....	24,960 99	21,997 18	24 00	3 00	.....	.....	.....
Cleveland, Cincinnati, Chicago & St. Louis... (All Pro Rates made by R. R. at .2714)	381,812 00	103,623 78	574,628 37	11,250 00	141,805 86	9,100 38	Tax Accruals	3,500 20	.....
Kankakee & Seneca	.....	.....	.....	.....	.....	.....	.....	.....	.....
Peoria & Eastern	.....	.....	23,959 09	11,905 07	86 00	9 45	.....	.....	.....
Illinois Central	12,039 70	.....	655,208 79	174,390 15	8,801 11	1,140 85	.....	.....	.....
Illinois Southern	.....	.....	153 95	153 95	125 00	125 00	Tax Accruals	1,069 79	.....
Lake Erie & Western	135,634 65	.....	57,055 62	23,254 23	5,328 14	7 00	In.terest on Funded and Unnfunded Debt	640,253 91	.....
Minneapolis & St. Louis	4,017 48	.....	123,008 21	22,500 00	1,110 48	.....	.....	.....	.....
Mobile & Ohio	.....	.....	566,560 06	23,289 77	8,840 04	3,628 16	.....	160,589 38	.....
St. Louis, Iron Mountain & Southern..	134,227 21	67,960 00	654,381 49	47,601 29	18,981 14	2,070 57	Income Tax	2,108 67	.....
Southern Railway	40,722 92	.....	1,052,062 51	63 60	38,276 45	1,999 92	.....	.....	.....
Toledo, Peoria & Western	1,575 96	1,575 96	49,465 96	49,465 96	77 00	77 00	.....	.....	.....
Toledo, St. Louis & Western	.....	.....	38,232 29	16,396 50	115 25	.....	.....	.....	.....
Vandalia Railroad	6,000 00	.....	233,806 94	91,739 55	23,955 21	229 25	Loss on Dining Cars.....	20,032 67	.....
Total, 23 roads	$1,336,818 32	$290,898 79	$9,793,962 14	$2,460,735 45	$479,892 54	$80.626 99		$840,830 89	$522 0

•Includes all classes of Equipment; (w) includes *Total* Rental of St. L. P. & No. W.; (T) Hire of Equipment pro rated on Classification Mileage Pro Rate; (S) Wettling's Work
Illinois than Entire Line.

Entire Line Figures same as used by Wettling; Illinois Figures from Reports of Carriers to State of Illinois for deduction for lease of roads; Joint Facility Rents, Miscellaneous Ren
Cars, Other Passenger Train Cars, Freight Cars, Work Cars and Locomotives being a proportion of the Entire Line figures, based upon the Illinois Mileage to the total mileage of the
Division between Freight and Passenger, as follows: Columns 1, 2, 3 and 4 on Revenue Train Mile Basis; Sleeping and Other Passenger Train Cars, Passenger Direct, Freight
direct, Locomotives, Revenue Locomotive Miles.

LANCE AND OTHER DEBITS FROM RAILWAY OPERATIONS—23 ROADS.

YEAR ENDED JUNE 30, 1914.

Items.		Sleeping Cars.		Other Passenger Train Cars.		Freight Cars.		Work Cars.		Locomotives.		Total.	
Entire Line.	Illinois.	Entire Line.	Illinois.	Entire Line.	Illinois.	Entire Line.	Illinois.	Entire Line.	Illinois.	Entire Line.	Illinois.	Entire Line.	Illinois.
.....	.....	.....	.....	*$36,134 22*	*$3,796 26*	$162,207 59	$12,399 47	*$30,325 47*	*$1,178 32*	*$85,196 20*	*$6,041 86*	$ 892,754 14	$175,702 79
.....	.....	.....	.....	6,783 90	4,790 70	520,083 15	390,186 18	*5,825 75*	*4,714 55*	40,732 44	29,882 95	770,046 63	542,828 58
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	762,901 62	678,114 41
.....	.....	.....	.....	*7,233 21*	*2,081 23*	785,486 46	169,657 22	*60,097 14*	*6,141 93*	*2,779 38*	*745 12*	1,265,866 98	396,660 56
c., ...	.....	.....	.....	6,398 36	1,575 28	508,490 11	177,122 36	*75,259 62*	*26,171 53*	*5,399 89*	*1,723 05*	1,487,921 93	495,031 03
..													
.. $5,914 27	Road Basis	$31,847 54	(T)$6,310 27	5,717 35	975 09	42,897 16	11,480 99	*9,854 60*	*2,456 95*	*20,207 85*	*3,505 66*	649,163 41	349,660 79
.....	.....	.....	.....	.....	.....	*39,433 05	39,433 05	.....	.....	.....	.....	55,371 69	55,371 69
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	765,362 80	203,496 03
.. 7,362 00	$522 00	.....	.....	*20,454 86*	*3,010 34*	1,028,336 80	144,213 95	*78,879 26*	*4,585 64*	7,102 81	1,186 67	2,705,389 47	173,220 42
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	24,984 99	22,000 18
.. 3,500 20	.....	.....	.....	69,079 42	18,748 15	1,425,284 30	386,822 16	*5,902 59*	*1,601 96*	141,489 70	38,400 80	2,731,697 26	566,342 81
.....	.....	.....	.....	3,388 26	3,388 26	14,018 85	14,018 85	.....	.....	2,871 00	2,871 00	20,278 11	20,278 11
.....	.....	.....	.....	1,931 22	723 82	84,630 11	31,719 36	*547 79*	*205 31*	*5,118 47*	*1,918 40*	104,940 16	42,234 99
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	676,049 60	175,531 00
.. 1,069 79	.....	.....	.....	*273 40*	*222 26*	33,336 18	20,606 76	*580 00*	*453 26*	*385 00*	*263 05*	33,446 52	19,947 41
nd													
.. 640,253 91	.....	.....	.....	*261 73*	*34 96*	358,228 46	47,859 32	*4,331 43*	*578 70*	*7,298 67*	*975 10*	1,184,608 95	69,531 79
.....	.....	22,189 10	21 68	321 29	14 42	311,221 38	39,310 37	*2,473 79*	*494 14*	*9,222 82*	*925 05*	450,171 33	60,427 28
.. 160,589 38	.....	9,676 99	2,312 22	.....	.....	200,232 34	41,063 65	1,360 69	64 45	*8,087 87*	*1,937 22*	939,171 63	68,421 03
.. 2,108 67	.....	.....	.....	37,033 17	404 17	487,848 76	80,460 89	11,763 21	1,069 66	*39,725 64*	*3,870 70*	1,306,618 01	195,695 88
.....	.....	7,232 44	169 85	*32,017 79*	*327 00*	668,942 24	23,317 32	*8,876 07*	*45 35*	*33.566 86*	*1,094 68*	1,732,775 84	24,083 66
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	51,118 92	51,118 92
.....	.....	.....	.....	6,362 78	2,534 93	337,295 56	134,378 55	*133 29*	(s) *53 10*	5,625 32	(s) 2,245 11	387,507 91	155,501 99
.....	.....	.....	.....	.....	.....	*290,304 86	123,852 78	.....	.....	.....	.....	574,099 68	215,821 58
.. 20,032 67	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....		
$840,830 89	$522 00	$70,946 07	$8,814 02	$40,640 54	$23,682 67	$7,298,277 36	$1,887,903 23	*$269,962 90*	*$47,546 63*	*$19,157 38*	$51,386 14	$19,572,247 58	$4,757,022 66

; (S) Wettling's Working Papers show more in

Rents, Miscellaneous Rents and Other Items, Sleeping
he total mileage of the respective classes of cars.
ssenger Direct, Freight and Work Cars, Freight

Total Credits	7,404,483 56	2,715,366 23
Net Debits	$12,167,764 02	$2,041,656 43
Freight	10,506,590 16	1,895,793 68
Passenger	1,661,173 86	145,862 75

OPERATING EXPENSES INCIDENT TO FREIGHT AND PASSENGER TRAFFIC AND STATISTICS PERTAINING THERETO. A COMPARISON BETWEE
AND OPERATIONS IN ILLINOIS ONLY.

23 ROADS—YEAR ENDED JUNE 30, 1914.

NAME OF ROAD OR SYSTEM.	Total Operating Expense Freight.		Total Operating Expense Passenger.		Average Cost per Ton per Mile in Mills.		Average Cost per Passenger per Mile in Mills.		Freight Cost per Mile of Road.		Passenger Cost Per Mile of Ro	
	Entire line.	Illinois.	Entire line.	Illinois.	Entire line.	Illinois.	Entire line.	Illinois.	Entire line.	Illinois.	Entire line.	Illi
Atchison, Topeka & Santa Fe	$46,604,010 84	$ 3,099,166 72	$26,865,322 84	$1,853,707 28	$7 91	$7 05	$23 43	$25 68	$5,584 13	$10,686 78	$3,219 03	$6,
Chicago & Alton	7,752,517 22	5,245,353 16	4,430,801 42	3,268,489 07	5 29	4 59	20 27	19 79	7,502 24	6,821 01	4,287 76	4,
Chicago & Eastern Illinois	8,687,639 81	6,323,738 02	4,398,849 11	2,841,807 93	3 93	3 91	26 42	27 19	6,770 61	9,257 67	3,428 19	4,
Chicago & North Western	35,488,611 32	5,844,418 56	24,812,963 98	6,457,043 81	5 69	4 14	21 15	16 44	4,397 27	7,303 70	3,074 48	8,
Chicago, Burlington & Quincy	42,673,408 26	13,114,095 44	20,551,444 56	5,031,325 35	4 95	3 88	17 84	16 17	4,669 05	7,346 59	2,248 61	2,
Chicago Great Western	7,093,865 08	1,350,572 90	3,329,768 82	526,268 13	3 81	3 65	23 91	29 97	4,741 19	7,622 17	2,559 63	2,
Chicago, Milwaukee & Gary	428,673 47	428,673 47	.....	.....	7 43	7 43	.....	.....	3,277 57	3,277 57	.....	...
Chicago, Milwaukee & St. Paul	43,516,383 72	4,260,236 12	19,356,623 11	2,133,704 15	5 39	4 67	21 22	20 66	4,493 66	8,951 01	1,998 83	4,
Chicago, Rock Island & Pacific	30,919,301 31	3,416,582 79	18,598,646 71	2,988,111 65	6 26	4 11	19 48	14 82	4,000 02	9,359 22	2,406 10	8,
Chicago, Terre Haute & Southeastern	1,446,595 49	551,554 00	340,710 90	.....	4 39	2 81	26 37	.....	3,876 61	4,388 91	913 04	...
Cleveland, Cincinnati, Chicago & St. Louis	21,772,781 25	5,903,317 79	9,159,129 57	2,455,042 85	5 25	5 24	20 19	19 94	9,953 95	9,945 28	4,187 32	4,
Kankakee & Seneca	31,812 93	33,754 55	41,845 14	39,903 52	3 08	3 27	47 67	45 46	748 54	794 22	984 59	
Peoria & Eastern	861,139 51	322,755 09	485,098 63	182,189 77	3 90	3 90	25 27	25 27	2,449 13	2,448 82	1,382 49	1,
Illinois Central	37,211,625 18	16,564,700 85	14,081,155 73	7,471,587 35	4 78	4 13	19 59	18 16	7,803 62	8,080 18	2,952 95	3,
Illinois Southern	208,273 95	130,046 26	225,650 90	183,521 88	3 01	3 12	81 26	76 01	1,522 47	1,397 44	1,649 25	1,
Lake Erie & Western	3,499,260 96	467,501 26	1,228,967 00	164,190 00	5 08	5 08	26 47	26 47	3,863 98	3,863 65	1,357 06	1,
Minneapolis & St. Louis	5,341,344 53	581,672 44	1,551,781 73	85,275 80	6 28	4 92	16 84	19 21	3,244 71	6,322 53	942 49	
Mobile & Ohio	8,213,422 58	1,815,166 39	1,908,722 00	292,114 45	5 14	5 86	27 64	25 77	7,317 41	10,825 82	1,700 49	1,
St. Louis, Iron Mountain & Southern	15,052,172 75	1,645,124 67	6,442,691 31	969,629 91	4 83	3 07	22 26	26 79	4,473 22	6,850 40	1,914 65	4,
Southern Railway	31,197,313 25	916,499 41	20,563,336 02	420,864 55	6 81	4 74	23 15	24 30	4,435 87	5,626 49	2,923 85	2,
Toledo, Peoria & Western	761,821 89	761,821 89	474,333 36	474,333 36	12 99	12 99	19 00	19 00	3,068 15	3,068 15	1,910 32	1,
Toledo, St. Louis & Western	2,202,978 53	877,666 65	935,167 52	372,570 73	2 92	2 91	39 84	39 84	4,889 21	4,889 78	2,075 47	2,
Vandalia Railroad	6,041,372 42	2,444,339 28	2,800,826 60	1,302,384 37	5 20	5 83	23 95	25 31	6,638 51	7,533 79	3,077 66	4,
Total, 23 roads	$357,006,326 25	$76,098,752 71	$183,084,836 96	$39,514,065 91	$5 56	$4 31	$21 18	$19 35	$5,067 18	$7,572 83	$2,598 62	$3,

(Variation between Entire Line and Illinois due to difference in Train Mileage used.

NOTE:—Entire Line figures and division between Freight and Passenger from Mr. Wettling's Working Papers; Illinois figures on basis of Illinois Revenue Freight Train Mileage to Total R
Passenger Train Mileage to Total Revenue Passenger Train Mileage. Auxiliary and Other Expenses on generally recognized basis.

23 ROADS—YEAR ENDED JUNE 30, 1914.

Operating Expense Freight.		Total Operating Expense Passenger.		Average Cost per Ton per Mile in Mills.		Average Cost per Passenger per Mile in Mills.		Freight Cost per Mile of Road.		Passenger Cost Per Mile of Road.		Cost Per Train Mile. Freight.		Passenger.	
ne.	Illinois.	Entire line.	Illinois.	Entire line.	Illinois.	Entire line.	Illinois.	Entire line.	Illinois.	Entire line.	Illinois.	Entire line.	Illinois.	Entire line.	Illinois.
10 84	$ 3,099,166 72	$26,865,322 84	$1,853,707 28	$7 91	$7 05	$23 43	$25 68	$5,584 13	$10,686 78	$3,219 03	$6,392 09	$2.82428	$2.82597	$1.28867	$1.28826
17 22	5,245,353 16	4,430,801 42	3,268,489 07	5 29	4 59	20 27	19 79	7,502 24	6,821 01	4,287 76	4,250 31	2.33379	2.33364	1.26696	1.30463
39 81	6,323,738 02	4,398,849 11	2,841,807 93	3 93	3 91	26 42	27 19	6,770 61	9,257 67	3,428 19	4,160 28	2.30425	2.30423	1.33038	1.33006
11 32	5,844,418 56	24,812,963 98	6,457,043 81	5 69	4 14	21 15	16 44	4,397 27	7,303 70	3,074 48	8,069 29	1.98015	1.99027	1.15187	1.15830
08 26	13,114,095 44	20,551,444 56	6,031,325 35	4 95	3 88	17 84	16 17	4,669 05	7,346 59	2,248 61	2,818 57	2.37119	2.38417	1.10185	1.08991
65 08	1,350,572 90	3,829,768 82	526,268 13	3 81	3 65	23 91	29 97	4,741 19	7,622 17	2,559 63	2,970 08	2.46904	2.46945	1.18629	1.18490
73 47	428,673 47	.....	.....	7 43	7 43	.....	.....	3,277 57	3,277 57	.....	.....	2.87099	2.87099	.....	.....
83 72	4,260,236 12	19,356,623 11	2,133,704 15	5 39	4 67	21 22	20 66	4,493 66	8,951 01	1,998 83	4,483 04	2.04545	2.04468	1.01120	.96153
01 31	3,416,582 79	18,598,646 71	2,988,111 65	6 26	4 11	19 48	14 82	4,000 02	9,359 22	2,406 10	8,185 48	1.91537	1.91476	1.01507	1.03022
95 49	551,554 00	340,710 90	.....	4 39	2 81	26 37	.....	3,876 61	4,388 91	913 04	.....	2.92272	2.89973	1.07152	.....
81 25	5,903,317 79	9,159,129 57	2,455,043 85	5 25	5 24	20 19	19 94	9,953 95	9,945 28	4,187 32	4,135 99	2.66005	2.65743	1.14377	1.12962
12 93	33,754 55	41,845 14	39,903 52	3 08	3 27	47 67	45 46	748 54	794 22	984 59	938 91	.57328	.60827	.91083	.85006
39 51	322,755 09	485,098 63	182,189 77	3 90	3 90	25 27	25 27	2,449 13	2,448 82	1,382 49	1,382 32	1.82791	1.82790	1.17689	1.17689
25 18	16,564,700 85	14,081,155 73	7,471,587 35	4 78	4 13	19 59	18 16	7,803 62	8,080 18	2,952 95	3,644 60	1.99178	1.98826	1.04555	1.04613
73 95	130,046 26	225,650 90	183,521 88	3 01	3 12	81 26	76 01	1,522 47	1,397 44	1,649 25	1,972 09	1.30977	1.30987	1.32772	1.32776
60 96	467,501 26	1,228,967 00	164,190 00	5 08	5 08	26 47	26 47	3,863 98	3,863 65	1,357 06	1,356 94	1.80747	1.80747	.91734	.91734
44 53	581,672 44	1,551,781 73	85,275 80	6 28	4 92	16 84	19 21	3,244 71	6,322 53	942 49	926 91	1.83135	1.83144	.69150	.69134
22 58	1,815,166 39	1,908,722 00	292,114 45	5 14	5 86	27 64	25 77	7,317 41	10,825 82	1,700 49	1,742 20	1.66061	1.66043	.93612	.94419
72 75	1,645,124 67	6,442,691 31	969,629 91	4 83	3 07	22 26	26 79	4,473 22	6,850 40	1,914 65	4,037 60	2.18103	2.17964	1.00796	6.30469
13 25	916,499 41	20,563,336 02	420,864 55	6 81	4 74	23 15	24 30	4,435 87	5,626 49	2,923 85	2,583 73	1.87452	1.83398	1.06822	1.05655
21 89	761,821 89	474,333 36	474,333 36	12 99	12 99	19 00	19 00	3,068 15	3,068 15	1,910 32	1,910 32	2.00150	2.00150	.83717	.83717
78 52	877,866 65	935,167 52	372,570 73	2 92	2 91	39 84	39 84	4,889 21	4,889 78	2,075 47	2,075 72	1.22402	1.22402	1.23076	1.23075
72 42	2,444,339 28	2,800,826 60	1,302,384 37	5 20	5 83	23 95	25 31	6,638 51	7,533 79	3,077 66	4,014 13	1.98753	1.98738	.97758	.97732
26 25	$76,098,752 71	$183,084,836 96	$39,514,065 91	$5 56	$4 31	$21 18	$19 35	$5,067 18	$7,572 83	$2,598 62	$3,932 17	$2.14337	$2.14822	$1.10018	$1.13361

ifference in Train Mileage used.
eight and Passenger from Mr. Wettling's Working Papers; Illinois figures on basis of Illinois Revenue Freight Train Mileage to Total Revenue Freight Train Mileage, and Illinois Revenue n Mileage. Auxiliary and Other Expenses on generally recognized basis.

EARNINGS INCIDENT TO FREIGHT TRAFFIC AND STATISTICS PERTAINING THERETO—A COMPARISON BETWEEN ENTIRE LINE AND OPERAT

YEAR ENDED JUNE 30, 1914.

NAME OF ROAD OR CARRIER.	Number of Tons Carrier One Mile		Average Distance Haul of One Ton in Miles		Total Freight Revenue		Ratio of Illinois to Entire Line	Average Receipts Per Ton Per Mile-Mills		Freight Revenue Per Mile of Road		Rat of Il noi To
	Entire Line	Illinois	Entire Line	Illinois	Entire Line	Illinois		Entire Line	Illinois	Entire Line	Illinois	
Atchison, Topeka & Santa Fe	$5,893,379,432	$ 439,544,208	273.60	152.14	$62,295,319 22	$4,660,091 38	7.48	10.57	10.60	$7,464 29	$16,069 28	215
Chicago & Alton	1,464,671,656	1,141,619,909	172.63	139.68	9,395,353 36	7,204,702 97	78.35	6.28	6.	8,898 30	9,368 82	105
Chicago & Eastern Illinois	2,212,684,398	1,615,259,611	160.30	160.29	11,645,556 33	8,492,209 51	72.92	5.26	5.26	9,075 83	12,432 23	136
Chicago & North Western	6,229,944,171	1,412,813,234	143.85	73.67	56,038,385 30	12,586,930 23	22.46	8.99	8.91	6,943 51	15,729 73	226
Chicago, Burlington & Quincy	8,612,629,607	3,382,306,760	265.91	185.62	65,108,029 02	22,508,144 15	33.04	7.56	6.36	7,123 70	12,048 97	169
Chicago Great Western	1,364,026,080	370,238,862	245.42	134.55	10,212,938 53	2,587,199 24	25.33	7.49	6.99	6,825 83	14,601 27	213
Chicago, Milwaukee & Gary	57,677,762	57,677,762	70.43	70.43	409,494 27	409,494 27	100.00	7.10	7.10	3,130 93	3,130 93	100
Chicago, Milwaukee & St. Paul	8,079,689,565	913,003,072	244.79	66.94	67,446,254 51	8,431,287 19	12.50	8.35	9.24	6,964 75	17,714 65	254
Chicago, Rock Island & Pacific	4,940,743,852	830,227,424	233.96	104.22	43,285,488 67	7,397,763 25	17.09	8.76	8.91	5,599 84	20,265 07	361
Chicago, Terre Haute & Southeastern	331,125,139	198,509,780	87.67	105.15	1,929,842 50	762,822 76	39.53	5.83	3.88	5,171 62	6,070 05	117
Cleveland, Cincinnati, Chicago & St. Louis	4,148,299,045	1,125,848,361	163.12	163.12	23,590,207 58	6,402,379 62	27.14	5.69	5.69	10,784 85	10,786 04	100
Kankakee & Seneca	10,328,253	10,328,253	24.56	24.56	62,571 12	62,571 12	100.00	6.06	6.06	1,472 26	3,472 26	100
Peoria & Eastern	280,615,523	82,686,698	116.16	116.16	1,257,773 83	471,413 65	37.48	5.70	5.70	3,577 18	3,576 73	99
Illinois Central	7,789,173,596	4,008,209,709	240.83	177.85	47,173,003 08	20,368,511 34	43.13	6.06	5.08	9,892 61	9,924 93	100
Illinois Southern	69,277,137	41,707,751	59.17	36.58	490,539 05	278,232 04	56.77	7.08	6.67	3,582 36	2,989 81	83
Lake Erie & Western	688,486,140	91,981,748	125.89	125.89	676,514 21	624,782 35	13.36	6.79	6.79	5,163 94	5,163 49	99
Minneapolis & St. Louis	850,221,217	118,333,873	152.30	70.21	7,273,978 07	878,092 81	12.07	8.55	7.42	4,417 92	9,544 49	216
Mobile & Ohio	1,598,623,994	309,531,412	224.80	111.10	10,998,952 41	1,658,097 95	15.08	6.88	5.36	9,799 06	9,889 06	100
St. Louis, Iron Mountain & Southern	3,116,024,051	536,065,816	228.23	89.07	25,041,946 94	3,695,815 76	14.76	8.04	6.89	7,441 99	15,389 61	206
Southern Railway	4,584,338,858	193,518,001	154.61	74.02	47,061,522 25	1,541,660 41	3.28	10.27	7.97	6,691 56	9,464 43	141
Toledo, Peoria & Western	58,649,413	58,649,413	60.61	60.61	736,157 73	736,157 73	100.00	12.55	12.55	2,964 80	2,964 80	100
Toledo, St. Louis & Western	755,144,510	301,849,573	194.01	194.60	4,025,812 35	1,603,883 64	39.84	5.33	5.31	8,934.73	8,935 78	100
Vandalia Railroad	1,160,723,907	419,106,436	111.56	99.45	7,803,871 49	3,055,283 98	39.15	6.72	7.29	8,575 21	9,416 81	109
Total, 23 roads	$64,236,477,246	$17,656,817,666	.....	143.09	$507,758,911 82	$115,395,527 35	22.73	7.90	6.54	$7,206 90	$11,483 38	159

Entire Line Figures from Report of Carriers to the State of Illinois. Division between Freight and Passenger direct, as shown by Carrier, and on common Items allocated on generally
Illinois Figures as above.

YEAR ENDED JUNE 30, 1914.

rier One Mile Illinois	Average Distance Haul of One Ton in Miles Entire Line	Average Distance Haul of One Ton in Miles Illinois	Total Freight Revenue Entire Line	Total Freight Revenue Illinois	Ratio of Illinois to Entire Line	Average Receipts Per Ton Per Mile-Mills Entire Line	Average Receipts Per Ton Per Mile-Mills Illinois	Freight Revenue Per Mile of Road Entire Line	Freight Revenue Per Mile of Road Illinois	Ratio of Illinois to Total	Freight Revenue Per Train Mile Entire Line	Freight Revenue Per Train Mile Illinois	Ratio of Illinois to Total	Miles of Road Operated Entire Line	Miles of Road Operated Illinois	Ratio of Illinois to Total
439,544,208	273.60	152.14	$62,295,319 22	$4,660,091 38	7.48	10.57	10.60	$7,464 29	$16,069 28	215.28	$3.77520	$4.24930	112.56	8,345.79	290.00	3.47
1,141,619,909	172.63	139.68	9,395,363 36	7,204,702 97	78.35	6.28	6.	8,898 30	9,368 82	105.29	2.76808	5.20534	115.20	1,033.36	769.00	74.42
1,615,259,611	160.30	160.29	11,645,556 33	8,492,209 51	72.92	5.26	5.26	9,075 83	12,432 23	136.98	3.08878	3.06092	99.10	1,283.14	683.08	53.24
1,412,813,234	143.85	73.67	56,038,385 30	12,586,930 23	22.46	8.99	8.91	6,943 51	15,729 73	226.54	3.12677	4.28637	137.09	8,070.61	800.20	9.92
3,382,306,760	265.91	185.62	65,108,029 02	22,508,144 15	33.04	7.56	6.36	7,123 70	12,048 97	169.14	3.61780	3.91023	108.08	9,139.63	1,785.06	19.53
370,238,862	245.42	134.55	10,212,938 53	2,587,199 24	25.33	7.49	6.99	6,825 83	14,601 27	213.91	3.55464	4.73056	33.08	1,496.22	177.19	11.84
57,677,762	70.43	70.43	409,494 27	409,494 27	100.00	7.10	7.10	3,130 93	3,130 93	100.00	2.74254	2.74254	100.00	130.79	130.79	100.00
913,003,072	244.79	66.94	67,446,254 51	8,431,287 19	12.50	8.35	9.24	6,964 75	17,714 65	254.35	3.17025	4.04656	127.64	9,683.95	475.95	4.92
830,227,424	233.96	104.22	43,285,488 67	7,397,763 25	17.09	8.76	8.91	5,599 84	20,265 07	361.89	2.68143	4.14593	154.62	7,729.77	365.05	4.72
198,509,780	87.67	105.15	1,929,842 50	762,822 76	39.53	5.83	3.88	5,171 62	6,070 05	117.37	3.89908	4.01045	102.86	373.16	125.67	33.68
1,125,848,361	163.12	163.12	23,590,207 58	6,402,379 62	27.14	5.69	5.69	10,784 85	10,786 04	100.01	2.88210	2.88210	100.00	2,187.35	593.58	27.14
10,328,253	24.56	24.56	62,571 12	62,571 12	100.00	6.06	6.06	1,472 26	3,472 26	100.00	1.12755	1.12755	100.00	42.50	42.50	100.00
32,686,698	116.16	116.16	1,257,773 83	471,413 65	37.48	5.70	5.70	3,577 18	3,576 78	99.99	2.66983	2.66983	100.00	351.61	131.80	37.49
4,008,209,709	240.83	177.85	47,173,003 08	20,368,511 34	43.13	6.06	5.08	9,892 61	9,924 93	100.32	2.52497	2.43973	96.62	4,768.51	2,050.00	42.99
41,707,751	59.17	36.58	490,539 05	278,232 04	56.77	7.08	6.67	3,582 36	2,989 81	83.46	3.08234	2.80244	90.92	136.82	93.06	68.02
91,981,748	125.89	125.89	676,514 21	624,782 35	13.36	6.79	6.79	5,163 94	5,163 49	99.99	2.41556	2.41556	100.00	905.61	121.00	13.36
118,333,873	152.30	70.21	7,273,978 07	878,092 81	12.07	8.55	7.42	4,417 92	9,544 49	216.04	2.49397	2.76475	110.86	1,646.47	92.00	5.59
309,531,412	224.80	111.10	10,998,552 41	1,658,097 95	15.08	6.88	5.36	9,799 06	9,889 06	100.92	2.22380	1.51675	68.21	1,122.45	167.67	14.94
536,065,816	228.23	89.07	25,041,946 94	3,695,815 76	14.76	8.04	6.89	7,441 99	15,389 61	206.79	3.62853	4.89662	134.95	3,364.95	240.15	7.14
193,518,001	154.61	74.02	47,061,522 25	1,541,660 41	3.28	10.27	7.97	6,691 56	9,464 43	141.44	2.82773	3.08497	109.10	7,032.97	162.89	2.32
58,649,413	60.61	60.61	736,157 73	736,157 73	100.00	12.55	12.55	2,964 80	2,964 80	100.00	1.93408	1.93408	100.00	248.30	248.30	100.00
301,349,573	194.01	194.60	4,025,812 35	1,603,883 64	39.84	5.33	5.31	8,934.73	8,935 78	100.01	2.23683	2.23683	100.00	450.58	179.49	39.83
419,106,436	111.56	99.45	7,803,871 49	3,055,283 98	39.15	6.72	7.29	8,575 21	9,416 81	109.81	2.56737	2.48411	96.76	910.05	324.45	35.65
7,656,817,666	.....	143.09	$507,758,911 82	$115,395,527 35	22.73	7.90	6.54	$7,206 90	$11,483 38	159.34	$3.04845	$3.25754	106.86	70,454.59	10,048.92	14.26

nois. Division between Freight and Passenger direct, as shown by Carrier, and on common Items allocated on generally recognized bases.

EARNINGS INCIDENT TO PASSENGER TRAFFIC AND STATISTICS PERTAINING THERETO.

A COMPARISON BETWEEN ENTIRE LINE AND OPERATIONS IN ILLINOIS ONLY.

23 ROADS.

YEAR ENDED JUNE 30, 1914.

NAME OF ROAD OR CARRIER	Number of Passengers Carried One Mile. Entire Line.	Number of Passengers Carried One Mile. Illinois.	Average Distance Carried. Entire Line.	Average Distance Carried. Illinois.	Total Passenger Revenue. Entire Line.	Total Passenger Revenue. Illinois.	Ratio of Illinois to Total.	Average Receipts per Passenger per Mile (Cts.) Entire Line.	Average Receipts per Passenger per Mile (Cts.) Illinois.	Total Passenger Revenue Per Mile of Road. Entire Line.	Total Passenger Revenue Per Mile of Road. Illinois.	Ratio of Illinois to Total.	Total Passenger Revenue Train Mile. Entire Line.	Total Passenger Revenue Train Mile. Illinois.
Atchison, Topeka & Santa Fe	1,146,808,853	72,187,675	96.51	95.03	$31,244,948 97	$2,111,724 34	6.76	2.724	2.925	$3,743 80	$7,281 77	194.50	1.49875	1.46756
Chicago & Alton	218,638,922	165,396,000	55.93	54.37	5,085,546 68	3,812,187 17	74.96	2.326	2.308	4,921 37	4,957 33	100.73	1.45418	1.52165
Chicago & Eastern Illinois	166,516,268	104,524,553	32.34	30.96	3,988,068 60	2,527,217 56	63.37	2.395	2.418	3,108 05	3,699 74	119.04	1.20614	1.18283
Chicago & North Western	1,173,435,140	392,871,774	35.14	21.15	28,520,949 41	8,240,012 75	28.89	2.431	2.097	3,533 93	10,297 44	291.38	1.32462	1.47814
Chicago, Burlington & Quincy	1,152,123,930	311,084,102	49.14	30.10	28,579,112 04	7,249,789 42	25 37	2.481	2.330	3,126 74	4,061 37	129.88	1.53224	1.57049
Chicago Great Western	160,199,058	17,559,116	56.86	69.41	4,136,800 06	532,507 17	12.87	2.582	3.033	2,764 83	3,005 28	108 70	1.28140	1.19895
Chicago, Milwaukee & Gary	63,954	63,954	46.71	46.71	1,151 14	1,151 14	100.00	1.800	1.800	8 80	8 80	100.00	5.99552	5.99552
Chicago, Milwaukee & St. Paul	912,375,815	103,252,696	55.54	37.74	26,139,865 13	2,767,237 09	10.59	2.865	2.680	2,699 30	5,814 13	215.39	1.36556	1.24702
Chicago, Rock Island & Pacific	954,616,908	201,606,205	47.58	28.54	22,562,769 40	4,086,983 51	18.11	2.364	2.027	2,918 94	11,195 68	383.55	1.23143	1.40909
Chicago, Terre Haute & Southeastern	12,922,194	.....	13.64	.....	240,446 94	.....	.....	1.861	.....	644 35	.....	.....	.75619	.....
Cleveland, Cincinnati, Chicago & St. Louis	453,692,439	923,132,128	54.87	54.87	11,091,695 91	3,010,288 98	27.14	2.445	2.445	5,070 83	5,071 41	100.01	1.38510	1.38510
Kankakee & Seneca	877,796	877,796	16.04	16.04	22,125 07	22,125 07	100.00	2.521	2.521	520 59	520 59	100.00	.47133	.47133
Peoria & Eastern	19,239,095	7,210,813	39.00	39.00	484,581 46	181,621 12	37.48	2.519	2.519	1,378 17	1,378 01	99.99	1.17322	1.17322
Illinois Central	718,962,391	411,457,760	26.12	19.32	19,200,499 55	9,411,638 87	49 02	2.671	2.287	4,026 52	4,590 95	114.02	1.42567	1.31777
Illinois Southern	2,776,990	2,414,585	13.04	12.98	76,771 66	62,000 67	80.76	2.765	2.568	561 11	666 24	118.24	.45172	.44857
Lake Erie & Western	46,427,075	6,202,657	28.90	28.90	1,067,134 49	142,569 17	13.36	2.299	2.299	1,718 36	1,178 36	100.00	.79654	.79654
Minneapolis & St. Louis	92,125,649	4,439,875	37.15	19.48	2,347,682 19	108,548 03	4 62	2.548	2.445	1,425 89	1,179 87	82.75	1.04617	.88001
Mobile & Ohio	69,057,123	11,335,237	31.35	34.70	2,003,630 12	323,356 83	16.14	2.901	2.853	1,785 05	1,928 53	108.04	.98266	1.04517
St. Louis, Iron Mountain & Southern	289,376,236	3,619,870	35.74	19.18	8,247,770 28	88,309 61	1.07	2.850	2.440	2,451 08	367 72	15.00	1.29037	.57420
Southern Railway	888,312,962	17,319,316	45.24	35.80	23,689,474 50	450,254 96	1.90	2.667	2.600	3,368 35	2,764 17	82.06	1.23062	1.13033
Toledo, Peoria & Western	24,963,365	24,963,365	21.30	21.30	557,451 02	557,451 02	100.00	2.233	2.233	2,245 07	2,245 07	100.00	.98386	.98386
Toledo, St. Louis & Western	23,472,912	9,351,608	46.53	46.53	562,308 25	224,023 61	39.84	2.396	2.396	1,247 97	1,248 11	100.01	.74004	.74004
Vandalia Railroad	116,930,234	51,459,074	37.79	44.71	3,451,363 68	1,732,432 69	50.20	2.952	3.367	3,792 50	5,339 60	140 79	1.20464	1.30004
Total, 23 roads	8,643,915,309	2,042,130,251	44.70	27.79	$223,302,146 55	$47,643,420 78	21.34	2.583	2.333	$3,169 45	$4,741 15	149.59	1.34185	1.36684

Entire Line figures from report of Carriers to the State of Illinois Division between Freight and Passenger direct, as shown by the Carriers and on common items allocated on generally recognized bases. Illinois figures as above.

OPERATING INCOME ACCOUNT—*23 ROADS.

YEAR ENDED JUNE 30, 1914.

NAME OF ROAD OF CARRIER.	Total Operating Revenue. Entire Line.	Total Operating Revenue. Illinois.	Operating Expenses. Entire Line.	Operating Expenses. Illinois.	Net Railway Operating Revenue. Entire Line.	Net Railway Operating Revenue. Illinois.	Railway Tax Accruals From Reports of Carriers, 1914. Entire Line.	Railway Tax Accruals From Reports of Carriers, 1914. Illinois.	Railway Operating Income. Entire Line.	Railway Operating Income. Illinois.	Hire
Atchison, Topeka & Santa Fe	$93,540,268 19	$6,771,805 72	$73,439,333 68	$4,952,874 00	$20,070,934 51	$1,818,931 72	$4,773,440 87	$263,968 49	$15,297,493 64	$1,554,963 23	
Chicago & Alton	14,280,700 04	11,016,890 14	12,183,313 64	8,513,842 23	2,097,381 40	2,503,047 91	568,938 14	473,286 05	1,528,443 26	2,029,761 86	
Chicago & Eastern Illinois	15,633,624 93	11,019,427 07	13,086,488 92	9,165,540 95	2,547,136 01	1,853,886 12	630,500 00	370,040 45	1,916,636 01	1,483,845 67	
Chicago & North Western	84,559,334 71	20,826,942 98	60,101,575 30	12,301,462 37	24,257,759 41	8,525,480 61	4,252,790 29	770,186 61	20,004,969 12	7,755,293 80	
Chicago, Burlington & Quincy	13,687,141 06	28,757,933 57	63,124,852 82	18,145,420 79	30,462,288 24	10,612,512 78	4,016,657 74	916,308 10	26,445,630 50	9,696,204 68	
Chicago Great Western	14,349,738 59	3,119,706 41	10,923,633 90	1,875,841 03	3,426,104 69	1,242,865 38	498,764 14	85,746 08	2,927,340 55	1,157,119 30	
Chicago, Milwaukee & Gary	410,645 41	410,645 41	428,673 47	428,673 47	*18,028 06*	*18,028 06*	30,738 80	30,738 80	*48,766 86*	*48,766 86*	
Chicago, Milwaukee & St. Paul	93,586,119 64	11,198,524 28	62,573,006 83	6,393,940 27	30,713,112 81	4,804,584 01	4,106,557 41	209,308 79	26,606,555 40	4,595,275 22	
Chicago, Rock Island & Pacific	65,848,258 07	11,484,746 76	49,517,948 02	6,404,694 44	16,330,310 05	5,080,052 32	3,200,577 40	378,300 83	13,129,732 65	4,701,751 49	
Chicago, Terre Haute & Southeastern	2,370,289 44	762,822 76	1,787,306 39	551,554 00	382,983 05	211,268 76	138,000 00	33,539 95	244,985 05	177,728 81	
Cleveland, Cincinnati, Chicago & St. Louis	34,681,903 49	9,412,668 60	30,931,910 82	8,358,360 64	3,749,992 67	1,054,307 96	1,412,162 23	333,125 61	2,337,830 44	721,182 35	
Kankakee & Seneca	84,696 19	84,696 19	73,658 07	73,658 07	11,038 12	11,038 12	10,752 73	10,752 73	285 39	285 39	
Peoria & Eastern	1,742,355 29	663,034 77	1,347,238 14	504,944 86	395,117 15	148,089 91	59,505 54	18,257 18	335,611 61	129,832 73	
Illinois Central	66,373,502 63	29,758,150 21	51,292,780 91	24,036,288 20	15,080,721 72	5,721,862 01	3,341,247 07	809,117 46	11,739,474 65	3,912,744 55	
Illinois Southern	566,910 71	340,232 71	433,924 85	313,568 14	132,985 86	26,664 57	28,101 75	22,529 77	104,884 11	4,134 80	
Lake Erie & Western	5,743,648 70	767,351 52	4,728,227 96	631,691 26	1,015,420 74	135,660 26	267,640 01	28,241 90	747,780 73	107,418 36	
Minneapolis & St. Louis	9,621,660 26	986,640 84	6,893,126 26	666,948 24	2,728,534 00	319,692 60	410,360 91	24,880 00	2,318,173 09	297,812 60	
Mobile & Ohio	13,002,582 63	1,987,454 78	10,122,144 58	2,107,280 84	2,880,437 95	*125,826 06*	416,518 98	66,963 23	2,463,918 97	*192,789 29*	
St. Louis, Iron Mountain & Southern	33,289,717 22	3,784,125 37	21,494,864 06	2,614,754 58	11,794,853 16	1,169,370 79	1,343,252 90	97,666 97	10,451,600 26	1,071,703 82	
Southern Railway	70,750,996 75	1,991,915 37	51,760,649 27	1,337,363 96	18,990,347 48	654,551 41	2,679,389 67	66,945 16	16,310,957 81	587,606 25	
Toledo, Peoria & Western	1,293,608 75	1,293,608 75	1,236,155 25	1,236,155 25	57,453 50	57,453 50	73,920 99	73,920 99	*16,467 49*	*16,467 49*	
Toledo, St. Louis & Western	4,588,120 60	1,827,907 25	3,138,146 05	1,250,237 38	1,449,974 55	577,669 87	204,836 32	81,606 78	1,245,138 23	496,063 09	
Vandalia Railroad	11,255,235 17	4,787,716 67	8,842,199 02	3,746,723 65	2,413,036 15	1,040,993 02	381,864 56	114,415 17	2,031,171 59	926,577 85	
Total, 23 roads	$731,061,058 37	$163,038,948 13	$540,091,163 21	$115,612,818 62	$190,969,895 16	$47,426,129 51	$32,846,518 45	$6,276,847 30	$58,123,376 71	$41,149,282 21	

Entire line figures from pages 5 and 2 of this exhibit.
Illinois figures from pages 5 and 3 of this exhibit.
Hire of equipment—Credit—Entire line and Illinois, page 8 of this exhibit.
Hire of equipment—Debit—Entire line and Illinois, page 9 of this exhibit.

OPERATING INCOME ACCOUNT—*23 ROADS.

YEAR ENDED JUNE 30, 1914.

Revenue. Inois.	Railway Tax Accruals From Reports of Carriers, 1914. Entire Line.	Illinois.	Railway Operating Income. Entire Line.	Illinois.	Hire of Equipment, etc., Credit. Entire Line.	Illinois.	Gross Railway Operating Income. Entire Line.	Illinois.	Hire of Equipment, etc., Debit. Entire Line.	Illinois.	Net Railway Operating Income. Entire Line.	Illinois.
818,931 72	$4,773,440 87	$263,968 49	$15,297,493 64	$1,554,963 23	$812,300 39	$129,234 33	$16,109,794 03	$1,684,197 56	$892,754 14	$175,702 79	$15,217,039 89	$1,508,494 77
503,047 91	568,938 14	473,286 05	1,528,443 26	2,029,761 86	57,091 56	53,229 40	1,585,534 82	2,082,991 26	770,046 63	542,828 58	815,488 19	1,540,162 68
853,886 12	630,500 00	370,040 45	1,916,636 01	1,483,845 67	619,932 92	361,312 22	2,536,568 93	1,845,157 89	762,901 62	678,114 41	1,773,667 31	1,167,043 48
525,480 61	4,252,790 29	770,186 61	20,004,969 12	7,755,293 80	194,347 08	84,886 07	20,199,316 20	7,840,179 87	1,265,866 98	396,660 56	18,933,449 22	7,443,519 31
612,512 78	4,016,657 74	916,308 10	26,445,630 50	9,696,204 68	601,160 59	176,654 01	27,046,791 09	9,872,858 69	1,487,921 93	495,031 03	25,558,869 16	9,377,827 66
242,865 38	498,764 14	85,746 08	2,927,340 55	1,157,119 30	82,205 22	7,766 09	3,009,545 77	1,164,885 39	649,163 41	349,660 79	2,360,382 36	815,224 60
18,028 06	30,738 80	30,738 80	*48,766 86*	*48,766 86*	.....	.....	*48,766 86*	*48,766 86*	55,371 69	55,371 69	*104,138 55*	*104,138 55*
804,584 01	4,106,557 41	209,308 79	26,606,555 40	4,595,275 22	675,182 91	15,414 63	27,281,738 31	4,610,689 85	765,362 80	203,496 03	26,516,375 51	4,407,193 82
080,052 32	3,200,577 40	378,300 83	13,129,732 65	4,701,751 49	460,345 67	198,112 82	13,590,078 32	4,899,864 31	2,705,389 47	173,220 42	10,884,688 85	4,726,643 89
211,268 76	138,000 00	33,539 95	244,985 05	177,728 81	479,054 90	281,915 09	724,037 95	459,643 90	24,984 99	22,000 18	699,052 96	437,643 72
054,307 96	1,412,162 23	333,125 61	2,337,830 44	721,182 35	584,701 83	262,542 55	2,922,532 27	983,724 90	2,731,697 26	566,342 81	190,835 01	417,382 09
11,038 12	10,752 73	10,752 73	285 39	285 39	481 05	481 05	766 44	766 44	20,278 11	20,278 11	*19,511 67*	*19,511 67*
148,089 91	59,505 54	18,257 18	335,611 61	129,832 73	13,293 86	10,382 63	348,905 47	140,215 36	104,940 16	42,234 99	243,963 31	97,980 37
721,862 01	3,341,247 07	809,117 46	11,739,474 65	3,912,744 55	1,630,872 04	707,958 57	13,370,346 69	4,620,703 12	676,049 60	175,531 00	12,694,297 09	4,445,172 12
26,664 57	28,101 75	22,529 77	104,884 11	4,134 80	239 40	49 12	105,123 51	4,283 92	33,446 52	19,947 14	71,676 99	*15,663 22*
135,660 26	267,640 01	28,241 90	747,780 73	107,418 36	118,879 32	2,496 95	866,660 05	109,915 31	1,184,608 85	69,521 79	*317,948 90*	40,383 52
319,692 60	4.0,360 91	24,880 00	2,318,173 09	297,812 60	173,174 08	221 64	2,491,347 17	298,034 24	450,171 33	60,427 28	2,041,175 84	237,606 96
125,826 06	416,518 98	66,963 23	2,463,918 97	*192,789 29*	51,696 36	759 25	2,515,615 33	*192,030 04*	939,171 63	68,421 03	1,576,443 70	*260,451 07*
169,370 79	1,343,252 90	97,666 97	10,451,600 26	1,071,703 82	300,388 81	248,935 23	10,751,989 07	1,320,639 05	305,618 03	95,695 88	9,445,371 06	1,124,943 17
654,551 41	2,679,389 67	66,945 16	16,310,957 81	587,606 25	387,526 29	61,462 66	16,698,484 10	649,068 91	732,775 84	20,083 66	14,965,708 26	624,985 25
157,453 50	73,920 99	73,920 99	*16,467 49*	*16,467 49*	104,398 38	104,398 58	87,930 89	87,930 89	51,118 92	51,118 92	36,811 97	36,811 97
977,669 87	204,836 32	81,606 78	1,245,138 23	496,063 09	22,229 87	350 57	1,267,368 10	496,413 66	387,507 91	155,501 99	879,860 19	340,911 67
040,993 02	381,864 56	114,415 17	2,031,171 59	926,577 85	34,981 03	6,702 97	2,066,152 62	933,280 82	574,099 68	215,821 58	1,492,052 94	717,459 24
426,129 51	$32,846,518 45	$6,276,847 30	$58,123,376 71	$41,149,282 21	$7,404,483 56	$2,715,366 23	$165,527,860 27	$43,864,648 44	$19,572,247 58	$4,757,022 66	$145,955,612 69	$39,107,625 78

FREIGHT—ENTIRE LINE.	Atchison, Topeka & Santa Fe.	Chicago & Alton.	Chicago & Eastern Illinois.	Chicago & North Western.	Chicago, Burlington & Quincy	Chicago, Great Western.	Chicago, Milwaukee & Gary.	Chicago, Milwaukee & St. Paul.	Chicago, Rock Island & Pacific.	Chic Terre Southe
Total Revenue	$62,295,319 22	$9,195,153 36	$11,645,556 33	$56,038,385 30	$65,108,029 02	$10,212,938 53	$409,494 27	$67,446,254 51	$43,285,488 67	$1,
Total Expense	46,604,010 84	7,752,517 22	8,687,639 81	35,488,611 32	42,673,408 26	7,093,865 08	428,673 47	43,516,383 72	30,919,301 31	1,
Net Revenue	$15,691,308 38	$1,442,636 14	$2,957,916 52	$20,549,773 98	$22,434,620 76	$3,119,073 45	*$19,179 20*	$23,929,870 79	$12,366,187 36	$
Average Receipts Per Ton Mile	.01057	.00628	.00526	.00899	.00756	.00749	.00710	.00835	.00876	
Average Costs Per Ton Per Mile	.00791	.00529	.00393	.00569	.00495	.00381	.00743	.00539	.00626	
Average Net Revenue Per Ton Per Mile	.00266	.00099	.00133	.00330	.00261	.00368	*.00033*	.00296	.00250	
Revenue Per Mile of Road	$7,464 29	$8,898 30	$9,075 83	$6,943 51	$7,123 70	$6,825 83	$3,130 93	$6,964 75	$5,599 84	
Costs Per Mile of Road	5,584 13	7,502 24	6,770 61	4,397 27	4,669 05	4,741 19	3,277 57	4,493 66	4,000 02	
Net Revenue Per Mile of Road	$1,880 16	$1,396 06	$2,305 22	$2,546 24	$2,454 65	$2,084 64	*$146 64*	$2,471 09	$1,599 82	
Revenue Per Train Mile	3.77520	2.76808	3.08878	3.12677	3.61780	3.55464	2.74254	3.17025	2.68143	3
Costs Per Train Mile	2.82428	2.33379	2.30425	1.98015	2.37119	2.46904	2.87099	2.04545	1.91537	2
Net Revenue Per Train Mile	.95092	.43429	.78453	1.14662	1.24661	1.08560	*.12845*	1.12480	.76606	

Illinois figures arrived at o
Reve

FREIGHT—ILLINOIS.										
Total Revenue	$4,660,091 38	$7,204,702 97	$8,492,209 51	$12,586,930 23	$21,508,144 15	$2,587,199 24	$409,494 27	$8,431,287 19	$397,763 25	$7
Total Expense	3,099,166 72	5,245,353 16	6,323,733 02	5,844,418 56	13,114,095 44	1,350,572 90	428,673 47	4,260,236 12	416,582 79	
Net Revenue	$1,560,924 66	$1,959,349 81	$2,168,476 49	$6,742,511 67	$8,394,048 71	$1,236,626 34	*19,179 20*	$4,171,051 07	$981,180 46	$
Ratio to Total	9.95	135.82	73.31	32.81	37.42	39.69	100.00	17.43	32.19	
Average Receipts Per Ton Per Mile	.01060	.00631	.00526	.00891	.00639	.00699	.00710	.00924	.00891	
Average Costs Per Ton Per Mile	.00705	.00459	.00391	.00414	.00388	.00365	.00743	.00467	.00411	
Average Net Revenue Per Ton Per Mile	.00355	.00172	.00391	.00414	.00248	.00334	*.00033*	.00457	.00480	
Ratio to Total	133.46	173.74	100.30	144.55	95.02	90.76	100.00	154.39	192.00	2
Revenue Per Mile of Road	$16,069 28	$9,368 92	$12,432 23	$15,729 73	$12,048 97	$14,601 27	$3,130 93	$17,714 65	$20,265 07	
Costs Per Mile of Road	10,686 78	6,821 01	9,257 67	7,303 70	7,346 59	7,622 17	3,277 57	8,951 01	9,359 22	
Net Revenue Per Mile of Road	$5,382 50	$2,547 91	$3,174 56	$8,426 03	$4,702 38	6,979 10	*$146 64*	$8,763 64	$10,905 85	
Ratio to Total	286.28	182.50	137.71	330.92	191.57	334.79	100.00	354 65	681.69	1
Revenue Per Train Mile	4.24930	3.20534	3.06092	4.28637	3.91023	4.73056	2.74254	4.04656	4.14593	4
Costs Per Train Mile	2.82597	2.35664	2.30423	1.99027	2.38417	2.46945	2.87099	2.04468	1.91476	2
Net Revenue Per Train Mile	1.42333	.87170	.75669	2.29610	1.52606	2.26111	*.12845*	2.00188	2.23017	1
Ratio to Total	149.68	200.72	96.45	200.25	122.42	208.28	100.00	177.98	291 12	1

NET REVENUE FROM FREIGHT OPERATIONS—23 ROADS— ENTIRE LINE AND STATE OF ILLINOIS

ENTIRE LINE

Entire Line figures taken from Reports of Carriers to State of Illinois Year ended June 30, 1914.

Chicago, Terre Haute & Southeastern.	Cleveland, Cincinnati, Chicago & St. Louis.	Kankakee & Seneca.	Peoria & Eastern.	Illinois Central.	Illinois Southern.	Lake Erie & Western.	Minneapolis & St. Louis.	Mobile & Ohio.	St. Louis, Iron Mountain & Southern.	Southern Railway.	Toledo, Peoria & Western.	Toledo, St. Louis & Western.
$1,929,842 50	$23,590,207 58	$62,571 12	$1,257,773 83	$47,173,003 08	$490,139 05	$4,676,514 21	$7,273,978 07	$10,998,952 41	$25,041,946 94	$47,061,522 25	$736,157 73	$4,025,8
1,446,595 49	21,772,781 25	31,812 93	861,139 51	37,211,625 18	208,273 95	3,499,260 96	5,341,344 53	8,213,422 58	15,052,172 75	31,197,313 25	761,821 89	2,202,9
$483,247 01	$1,817,426 33	$30,758 19	$396,634 32	$9,961,377 90	$281,865 10	$1,177,253 25	$1,932,633 54	$2,785,529 83	$9,989,774 19	$15,864,209 00	*$25,664 16*	$1,822,8
.00583	.00569	.00606	.00570	.00606	.00708	.00679	.00855	.00688	.00804	.01027	.01255	.0053
.00439	.00525	.00308	.00390	.00478	.00301	.00508	.00628	.00514	.00483	.00681	.01299	.0029
.00044	.00044	.00298	.00180	.00128	.00407	.00171	.00227	.00174	.00321	.00346	*.00044*	.0024
$5,171 62	$10,784 83	$1,472 26	$3,577 18	$9,892 61	$3,582 36	$5,163 94	$4,417 92	$9,799 06	$7,441 99	$6,691 56	$2,964 80	$8,9
3,876 61	9,953 95	748 54	2,449 13	7,803 62	1,522 47	3,863 98	3,244 71	7,317 41	4,473 22	4,435 87	3,068 15	4,8
$1,295 01	$830 88	$723 72	$1,128 05	$2,088 99	$2,059 89	$1,299 96	$1,173 21	$2,481 65	$2,968 77	$2,255 69	*$103 35*	$4,0
3.89908	2.88210	1.12755	2.66983	2.52497	3.08234	2.41556	2.49397	2.22380	3.62853	2.82773	1.93408	2.2368
2.92272	2.66005	.57328	1.82791	1.99178	1.30977	1.80747	1.83135	1.66061	2.18103	1.87452	2.00150	1.2240
.97636	.22205	.55427	.84192	.53319	1.77257	.60809	.66262	.56319	1.44750	.95321	*.06742*	1.0128

ILLINOIS

rived at on Freight and Passenger Revenue Train Mile Basis to Total Revenue Train Miles, Freight and Passenger Auxiliary, Hire of Equipment, Etc., Revenues and Expenses, proportioned to Freight and Passenger direct where possible, and where Common, assigned on generally recognized bases. Year ended June 30, 1914.

$762,822 76	$6,402,379 62	$62,571 12	$471,413 65	$20,346,511 34	$278,232 04	$624,782 35	$878,092 81	$1,658,097 95	$3,695,815 76	$1,541,660 41	$736,157 73	$1,603,8
551,554 00	5,903,317 79	33,754 55	322,755 09	16,564,700 85	130,045 26	467,501 26	581,672 44	1,815,166 39	1,645,124 67	916,499 41	761,821 89	877,6
$211,268 76	$499,061 83	$28,816 57	$148,658 56	$3,781,810 49	$148,185 78	$157,281 09	$296,420 37	*$157,068 44*	$2,050,691 09	$625,161 00	*$25,664 16*	$726,2
43.72	27.46	93.69	37.48	37.96	52.57	13.36	15.34	*177.34*	20.53	3.94	100.00	39.8
.00388	.00569	.00606	.00570	.00508	.00667	.00679	.00742	.00536	.00689	.00797	.01255	.0053
.00281	.00524	.00327	.00390	.00413	.00312	.00508	.00492	.00586	.00307	.00474	.01299	.0029
.00107	.00045	.00279	.00180	.00095	.00355	.00171	.00250	*.00050*	.00382	.00323	*.00044*	.0024
243.18	102.27	93.62	100.00	74.22	87.22	100.00	110.13	*28.73*	119.00	93.35	100.00	99.5
$6,070 05	$10,786 04	$1,472 26	$3,576 73	$9,924 93	$2,989 81	$5,163 49	$9,544 49	$9,889 06	$15,389 61	$9,464 43	$2,964 80	$8,9
4,388 91	9,945 28	794 22	2,448 82	8,080 18	1,397 44	3,863 65	6,322 53	10,825 82	6,850 40	5,626 49	3,068 15	4,8
$1,681 14	$840 76	$678 04	$1,127 91	$1,844 75	$1,592 37	$1,299 84	$3,221 96	*$936 76*	$8,539 21	$3,837 94	*$103 35*	$4,0
129.82	101.19	93.69	99.99	88.31	77.30	99.99	274.63	*37.75*	287.	170.14	100.00	100.0
4.01045	2.88210	1.12755	2.66983	2.43973	2.80244	2.41556	2.76475	1.51675	4.89662	3.08497	1.93408	2.2368
2.89973	2.65743	.60827	1.82790	1.98826	1.30987	1.80747	1.83144	1.66043	2.17964	1.83398	2.00150	1.2240
1.11072	.22467	.51928	.84193	.45147	1.49257	.60809	.93331	*.14368*	2.71698	1.25099	*.06742*	1.0128
113.76	101.18	93.69	100.00	84.67	84.20	100.00	140.85	*25.51*	187.70	131.24	100.00	100.0

ENTIRE LINE

ures taken from Reports of Carriers to State of Illinois
Year ended June 30, 1914.

	Peoria & Eastern.	Illinois Central.	Illinois Southern.	Lake Erie & Western.	Minneapolis & St. Louis.	Mobile & Ohio.	St. Louis, Iron Mountain & Southern.	Southern Railway.	Toledo, Peoria & Western.	Toledo, St. Louis & Western.	Vandalia Railroad.	Totals and Averages.
12	$1,257,773 83	$47,173,003 08	$490,139 05	$4,676,514 21	$7,273,978 07	$10,998,952 41	$25,041,946 94	$47,061,522 25	$736,157 73	$4,025,812 35	$7,803,871 49	$507,758,911 82
93	861,139 51	37,211,625 18	208,273 95	3,499,260 96	5,341,344 53	8,213,422 58	15,052,172 75	31,197,313 25	761,821 89	2,202,978 53	6,041,372 42	357,006,326 25
19	$396,634 32	$9,961,377 90	$281,865 10	$1,177,253 25	$1,932,633 54	$2,785,529 83	$9,989,774 19	$15,864,209 00	*$25,664 16*	$1,822,833 82	$1,762,499 07	$150,752,585 57
	.00570	.00606	.00708	.00679	.00855	.00688	.00804	.01027	.01255	.00533	.00672	.00790
	.00390	.00478	.00301	.00508	.00628	.00514	.00483	.00681	.01299	.00292	.00520	.00556
	.00180	.00128	.00407	.00171	.00227	.00174	.00321	.00346	*.00044*	.00241	.00152	.00234
26	$3,577 18	$9,892 61	$3,582 36	$5,163 94	$4,417 92	$9,799 06	$7,441 99	$6,691 56	$2,964 80	$8,934 73	$8,575 21	$7,206 90
54	2,449 13	7,803 62	1,522 47	3,863 98	3,244 71	7,317 41	4,473 22	4,435 87	3,068 15	4,889 21	6,638 51	5,067 18
72	$1,128 05	$2,088 99	$2,059 89	$1,299 96	$1,173 21	$2,481 65	$2,968 77	$2,255 69	*$103 35*	$4,045 52	$1,936 70	$2,139 72
	2.66983	2.52497	3.08234	2.41556	2.49397	2.22380	3.62853	2.82773	1.93408	2.23683	2.56737	3.04844
	1.82791	1.99178	1.30977	1.80747	1.83135	1.66061	2.18103	1.87452	2.00150	1.22402	1.98753	2.14337
	.84192	.53319	1.77257	.60809	.66262	.56319	1.44750	.95321	*.06742*	1.01281	.57984	.90507

ILLINOIS

Mile Basis to Total Revenue Train Miles, Freight and Passenger Auxiliary, Hire of Equipment, Etc., ght and Passenger direct where possible, and where Common, assigned on generally cognized bases. Year ended June 30, 1914.

12	$471,413 65	$20,346,511 34	$278,232 04	$624,782 35	$878,092 81	$1,658,097 95	$3,695,815 76	$1,541,660 41	$736,157 73	$1,603,883 64	$3,055,283 98	$115,395,527 35
55	322,755 09	16,564,700 85	130,045 26	467,501 26	581,672 44	1,815,166 39	1,645,124 67	916,499 41	761,821 89	877,666 65	2,444,339 28	76,098,752 71
57	$148,658 56	$3,781,810 49	$148,185 78	$157,281 09	$296,420 37	*$157,068 44*	$2,050,691 09	$625,161 00	*$25,664 16*	$726,216 99	$610,944 70	$39,296,774 64
	37.48	37.96	52.57	13.36	15.34	*177.34*	20.53	3.94	100.00	39.84	34.66	26.07
	.00570	.00508	.00667	.00679	.00742	.00536	.00689	.00797	.01255	.00531	.00729	.00654
	.00390	.00413	.00312	.00508	.00492	.00586	.00307	.00474	.01299	.00291	.00583	.00431
	.00180	.00095	.00355	.00171	.00250	*.00050*	.00382	.00323	*.00044*	.00240	.00146	.00223
	100.00	74.22	87.22	100.00	110.13	*28.73*	119.00	93.35	100.00	99.59	96.05	95.30
26	$3,576 73	$9,924 93	$2,989 81	$5,163 49	$9,544 49	$9,889 06	$15,389 61	$9,464 43	$2,964 80	$8,935 78	$9,416 81	$11,483 38
22	2,448 82	8,080 18	1,397 44	3,863 65	6,322 53	10,825 82	6,850 40	5,626 49	3,068 15	4,889 78	7,533 79	7,572 83
04	$1,127 91	$1,844 75	$1,592 37	$1,299 84	$3,221 96	*$936 76*	$8,539 21	$3,837 94	*$103 35*	$4,046 00	$1,883 02	$3,910 55
	99.99	88.31	77.30	99.99	274.63	*37.75*	287.	170.14	100.00	100.01	97.23	182.76
	2.66983	2.43973	2.80244	2.41556	2.76475	1.51675	4.89662	3.08497	1.93408	2.23683	2.48411	3.25754
	1.82790	1.98826	1.30987	1.80747	1.83144	1.66043	2.17964	1.83398	2.00150	1.22402	1.98738	2.14822
	.84193	.45147	1.49257	.60809	.93331	*.14368*	2.71698	1.25099	*.06742*	1.01281	.49673	1.10932
	100.00	84.67	84.20	100.00	140.85	*25.51*	187.70	131.24	100.00	100.00	85.67	122.57

PASSENGER—ENTIRE LINE.	Atchison, Topeka & Santa Fe.	Chicago & Alton.	Chicago & Eastern Illinois.	Chicago & North Western.	Chicago, Burlington & Quincy	Chicago, Great Western.	Chicago, Milwaukee & Gary.	Chicago, Milwaukee & St. Paul.	Chicago, Rock Island & Pacific.	Chic. Terre H. Southe.
Total Revenue	$31,244,948 97	$5,085,546 68	$3,988,068 60	$28,520,949 41	$28,579,112 04	$4,136,800 06	$1,151 14	$26,139,865 13	$22,562,769 40	$2
Total Expense	26,865,322 84	4,430,801 42	4,398,849 11	24,812,963 98	20,551,444 56	3,829,768 82	.....	19,356,623 11	18,598,646 71	
Net Revenue	$4,379,626 13	$654,745 26	*$410,780 51*	$3,707,985 43	$8,027,667 48	$307,031 24	$1,151 14	$6,783,242 02	$3,964,122 69	$
Average Receipts Per Passenger Per Mile	.02724	.02326	.02395	.02431	.02481	.02582	.01800	.02865	.02364	
Average Cost Per Passenger Per Mile	.02343	.02027	.02642	.02115	.01784	.02391	.....	.02122	.01948	
Average Net Revenue Per Passenger Per Mile.	.00381	.00299	*.00247*	.00316	.00697	.00191	.01800	.00743	.00416	
Revenue Per Mile of Road	$3,743 80	$4,921 37	$5,108 05	$3,533 93	$3,126 94	$2,764 83	$8 80	$2,699 30	$2,918 94	
Cost Per Mile of Road	3,219 03	4,287 76	3,428 19	3,074 48	2,248 61	2,559 63	.....	1,998 83	2,406 10	
Net Revenue Per Mile of Road	$524 77	$633 61	*$320 14*	$459 45	$878 33	$205 20	$8 80	$700 47	$512 84	
Revenue Per Train Mile	1.49875	1.45418	1.20614	1.32462	1.53224	1.28140	5.99552	1.36556	1.23143	
Cost Per Train Mile	1.28867	1.26696	1.33038	1.15187	1.10185	1.18629	.....	1.01120	1.01507	1
Net Revenue Per Train Mile	.21008	.18722	*.12424*	.17275	.43039	.09511	5.99552	.35436	.21636	
										Illinois figures arrived a Rev
PASSENGER—ILLINOIS.										
Total Revenue	$2,111,714 34	$3,812,187 17	$2,527,217 56	$8,240,012 75	$7,249,789 42	$532,507 17	$1,151 14	$2,767,237 09	$4,086,983 51	....
Total Expense	1,853,707 28	3,268,489 07	2,841,807 93	6,457,043 81	5,031,325 35	526,268 13	.....	2,133,704 15	2,988,111 65	....
Net Revenue	$258,007 06	$543,698 10	*$314,590 37*	$1,782,968 94	$2,218,464 07	$6,239 04	$1,151 14	$633,532 94	$1,098,871 86	....
Ratio to Total	5.89	83.04	76.57	48 08	27.64	2.03	100.00	9.34	27.72	
Average Receipts Per Passenger Per Mile	.02925	.02308	.02418	.02097	.02330	.03033	.01800	.02680	.02027	
Average Cost Per Passenger Per Mile	.02568	.01979	.02719	.01644	.01617	.02997	.....	.02066	.01482	
Average Net Revenue Per Passenger Per Mile.	.00357	.00329	*.00301*	.00453	.00713	.00036	.01800	.00614	.00545	
Ratio to Total	93.70	110.03	121.86	143.35	102.30	18.45	100.00	82.64	131.01	
Revenue Per Mile of Road	$7,281 77	$4,957 33	$3,699 74	$10,297 44	$4,061 37	$3,005 28	$8.80	$5,814 13	$11,195 68	....
Cost Per Mile of Road	6,392 09	4,250 31	4,160 28	8,069 29	2,818 57	2,970 08	.....	4,483 04	8,185 48	....
Net Revenue Per Mile of Road	$189 68	$707 02	*$460 54*	$2,228 15	$1,242 80	$35 20	$8 80	$1,331 09	$3,010 20	....
Ratio to Total	169.54	111.59	143.86	484 96	141.50	17.54	100.00	190.03	586.97	
Revenue Per Train Mile	1.46756	1.52165	1.18283	1.47814	1.57049	1.19895	5.99552	1.24702	1.40909	
Cost Per Train Mile	1.28826	1.30463	1.33006	1.15830	1.08991	1.18490	.....	.96153	1.03022	
Net Revenue Per Train Mile	.17930	.21702	*.14723*	.31984	.48058	.01405	5.99552	.28549	.37887	
Ratio to Total	85.35	115.92	112.50	185.15	111.61	14.71	100.00	80.57	175.11	

NET REVENUE FROM PASSENGER OPERATIONS—23 ROADS—ENTIRE LINE AND STATE OF ILLINOIS.

ENTIRE LINE

Entire Line figures taken from Reports of Carriers to State of Illinois.
Year ended June 30, 1914.

Chicago, Terre Haute & Southeastern.	Cleveland, Cincinnati, Chicago & St. Louis.	Kankakee & Seneca.	Peoria & Eastern.	Illinois Central.	Illinois Southern.	Lake Erie & Western.	Minneapolis & St. Louis.	Mobile & Ohio.	St. Louis, Iron Mountain & Southern.	Southern Railway.	Toledo, Peoria & Western.	Toledo, St. Louis & Western.
$240,446 94	$11,091,695 91	$22,125 07	$484,581 46	$19,200,499 55	$76,771 66	$1,067,134 49	$2,347,682 19	$2,003,630 12	$8,247,770 28	$23,689,474 50	$557,451 02	$562,30
340,710 90	9,159,129 57	41,845 14	486,098 63	14,081,155 73	225,650 90	1,228,967 00	1,551,781 73	1,908,722 00	6,442,691 31	20,563,336 02	474,333 36	935,16
$100,263 96	$1,932,566 34	*$19,720 07*	*$1,517 17*	$5,119,343 82	*$148,879 24*	*$161,832 51*	$795,900 46	$94,908 12	$1,805,078 97	$3,126,138 48	$83,117 66	*$372,85*
.01861	.02445	.02521	.02519	.02671	.02765	.02299	.02548	.02901	.02850	.02667	.02233	.02396
.02637	.02019	.04767	.02527	.01959	.08126	.02647	.01684	.02764	.02226	.02315	.01900	.03984
.00776	.00426	*.02246*	*.00008*	.00712	*.06361*	*.00348*	.00864	.00137	.00624	.00352	.00333	*.01588*
$644 35	$5,070 83	$520 59	$1,378 17	$4,026 52	$561 11	$1,178 36	$1,425 89	$1,785 05	$2,451 08	$3,368 35	$2,245 07	$1,24
913 04	4,187 32	984 59	1,382 49	2,952 95	1,649 25	1,357 06	942 49	1,700 49	1,914 65	2,923 85	1,910 32	2,07
$268 69	$883 51	*$464 00*	*$4 32*	$1,073 57	*$1,088 14*	*$178 70*	$483 40	$84 56	$536 43	$444 50	$334 75	*$82*
.75619	1.38510	.47133	1.17322	1.42567	.45172	79654	1.04617	.98266	1.29037	1.23062	.98386	.74004
1.07152	1.14377	.91083	1.17689	1.04555	1.32772	.91734	.69150	.93612	1.00796	1.06822	.83717	1.23076
.31533	.24133	*.43950*	*.00367*	.38012	*.87600*	*.12080*	.35467	.04654	.28241	.16240	.14669	*.49072*

ILLINOIS

rrived at on Freight and Passenger Revenue Train Mile Basis to Total Revenue Train Miles, Freight and Passenger Auxiliary, Hire of Equipment, Etc., Revenues and Expenses, proportioned to Freight and Passenger direct where possible, and where Common assigned on generally recognized bases. Year ended June 30, 1914.

.....	$3,010,288 98	$22,125 07	$181,621 12	$9,411,638 87	$62,000 67	$142,569 17	$108,548 03	$323,356 83	$88,309 61	$450,254 96	$557,451 02	$224,02
.....	2,455,042 85	39,903 52	182,189 77	7,471,587 35	183,521 88	164,190 00	85,275 80	292,114 45	969,629 91	420,864 55	474,333 36	372,57
.....	$555,246 13	*$17,778 45*	*$568 65*	$1,940,051 52	*$121,521 21*	*$21,620 83*	$23,272 22	$31,242 38	*$1,320 30*	$29,390 41	$83,117 66	*$148,54*
.....	28.73	90.16	37.48	37.90	81.62	13.36	2.92	32.92	*45.82*	.94	100.00	39.84
.....	.02445	.02621	.02519	.02287	.02568	.02299	.02445	.02853	.02440	.02600	.02233	.02396
.....	.01994	.04546	.02527	.01816	.07601	.02647	.01921	.02577	.02679	.02430	.01900	.03984
.....	.00451	*.02025*	*.00008*	.00471	*.05033*	*.00352*	.00524	.00276	*.00239*	.00170	.00383	*.01588*
.....	105.87	90.16	100.00	66.15	79.12	101.15	60.65	201.46	*38.30*	48.30	100.00	100.00
.....	$5,071 41	$520 59	$1,378 01	$4,590 95	$666 24	$1,178 36	$1,179 87	$1,928 53	$367 72	$2,764 17	$2,245 07	$1,24
.....	4,135 99	938 91	1,382 32	3,644 60	1,972 09	1,356 94	926 91	1,742 20	4,037 60	2,583 73	1,910 32	2,07
.....	$935 42	*$418 32*	*$4 31*	$946 35	*$1,305 85*	*$178 58*	$252 96	$186 33	*$3,669 88*	$180 44	$334 75	*$82*
.....	105.87	90.16	100.00	88.15	120.01	99.93	52.35	220.35	*684.13*	40.59	100.00	100.01
.....	1.38510	.47133	1.17322	1.31777	.44857	.79654	.88001	1.04517	.57420	1.13033	.98386	.74004
.....	1.12962	.85006	1.17689	1.04613	1.32776	.91734	.69124	.94419	6.30469	1.05655	.83717	1.23075
.....	.25548	*.37873*	*.00367*	.27164	*.87919*	*.12080*	.18877	.10098	*5.73049*	.07378	.14669	*.49071*
.....	105.87	86.16	100.00	71.46	100.36	100.00	53.22	216.97	*202.93*	45.43	100.00	100.0

R OPERATIONS—23 ROADS—ENTIRE LINE AND STATE OF ILLINOIS.

ENTIRE LINE

gures taken from Reports of Carriers to State of Illinois.
Year ended June 30, 1914.

	Peoria & Eastern.	Illinois Central.	Illinois Southern.	Lake Erie & Western.	Minneapolis & St. Louis.	Mobile & Ohio.	St. Louis, Iron Mountain & Southern.	Southern Railway.	Toledo, Peoria & Western.	Toledo, St. Louis & Western.	Vandalia Railroad.	Totals and Averages.
25 07	$484,581 46	$19,200,499 55	$76,771 66	$1,067,134 49	$2,347,682 19	$2,003,630 12	$8,247,770 28	$23,689,474 50	$557,451 02	$562,308 25	$3,451,363 68	$223,302,146 55
45 14	486,098 63	14,081,155 73	225,650 90	1,228,967 00	1,551,781 73	1,908,722 00	6,442,691 31	20,563,336 02	474,333 36	935,167 52	2,800,826 60	183,084,836 96
20 07	*$1,517 17*	$5,119,343 82	*$148,879 24*	*$161,832 51*	$795,900 46	$94,908 12	$1,805,078 97	$3,126,138 48	$83,117 66	*$372,859 27*	$650,537 08	$40,217,309 59
1	.02519	.02671	.02765	.02299	.02548	.02901	.02850	.02667	.02233	.02396	.02952	.02583
7	.02527	.01959	.08126	.02647	.01684	.02764	.02226	.02315	.01900	.03984	.02395	.02118
6	*.00008*	.00712	*.06361*	*.00348*	.00864	.00137	.00624	.00352	.00333	*.01588*	.00557	.00465
20 59	$1,378 17	$4,026 52	$561 11	$1,178 36	$1,425 89	$1,785 05	$2,451 08	$3,368 35	$2,245 07	$1,247 97	$3,792 50	$3,169 45
84 59	1,382 49	2,952 95	1,649 25	1,357 06	942 49	1,700 49	1,914 65	2,923 85	1,910 32	2,075 47	3,077 66	2,598 62
64 00	*$4 32*	$1,073 57	*$1,088 14*	*$178 70*	$483 40	$84 56	$536 43	$444 50	$334 75	*$827 50*	$714 84	$570 83
3	1.17322	1.42567	.45172	79654	1.04617	.98266	1.29037	1.23062	.98386	.74004	1.20464	1.34185
3	1.17689	1.04555	1.32772	.91734	.69150	.93612	1.00796	1.06822	.83717	1.23076	.97750	1.10018
50	*.00367*	.38012	*.87600*	*.12080*	.35467	.04654	.28241	.16240	.14669	*.49072*	.22714	.24167

ILLINOIS

ain Mile Basis to Total Revenue Train Miles, Freight and Passenger Auxiliary, Hire of Equipment, Etc., eight and Passenger direct where possible, and where Common assigned on generally recognized bases. Year ended June 30, 1914.

125 07	$181,621 12	$9,411,638 87	$62,000 67	$142,569 17	$108,548 03	$323,356 83	$88,309 61	$450,254 96	$557,451 02	$224,023 61	$1,732,432 69	$47,643,420 78
903 52	182,189 77	7,471,587 35	183,521 88	164,190 00	85,275 80	292,114 45	969,629 91	420,864 55	474,333 36	372,570 73	1,302,384 37	39,514,065 91
778 45	*$568 65*	$1,940,051 52	*$121,521 21*	*$21,620 83*	$23,272 22	$31,242 38	*$1,320 30*	$29,390 41	$83,117 66	*$148,547 12*	$430,048 32	$8,129,354 87
16	37.48	37.90	81.62	13.36	2.92	32.92	*48.82*	.94	100.00	39.84	66.11	20.21
21	.02519	.02287	.02568	.02299	.02445	.02853	.02440	.02600	.02233	.02396	.03367	.02333
46	.02527	.01816	.07601	.02647	.01921	.02577	.02679	.02430	.01900	.03984	.02531	.01935
25	*.00008*	.00471	*.05033*	*.00352*	.00524	.00276	*.00239*	.00170	.00383	*.01588*	.00836	.00398
16	100.00	66.15	79.12	101.15	60.65	201.46	*38.30*	48.30	100.00	100.00	150.09	85.59
520 59	$1,378 01	$4,590 95	$666 24	$1,178 36	$1,179 87	$1,928 53	$367 72	$2,764 17	$2,245 07	$1,248 11	$5,339 60	$4,741 15
938 91	1,382 32	3,644 60	1,972 09	1,356 94	926 91	1,742 20	4,037 60	2,583 73	1,910 32	2,075 72	4,014 13	3,932 17
418 32	*$4 31*	$946 35	*$1,305 85*	*$178 58*	$252 96	$186 33	*$3,669 88*	$180 44	$334 75	*$827 61*	$1,325 47	$808 98
16	100.00	88.15	120.01	99.93	52.35	220.35	*684.13*	40.59	100.00	100.01	185.42	141 72
33	1.17322	1.31777	.44857	.79654	.88001	1.04517	.57420	1.13033	.98386	.74004	1.30004	1.36684
06	1.17689	1.04613	1.32776	.91734	.69124	.94419	6.30469	1.05655	.83717	1.23075	.97732	1.13361
73	*.00367*	.27164	*.87919*	*.12080*	.18877	.10098	*5.73049*	.07378	.14669	*.49071*	.30272	.23323
16	100.00	71.46	100.36	100.00	53.22	216.97	*202.93*	45.43	100.00	100.00	133.27	96.51

STATEMENT SHOWING RETURN ON INVESTMENT, AS REPRESENTED BY ASSESSED VALUE. Page 16

TWENTY-THREE ROADS—STATE OF ILLINOIS.

Figures Taken from Report of State Board of Equalization.

Year Ended June 30, 1914.

NAME OF ROAD OR SYSTEM.	[2]Equalized value including assessment by local assessors.	Three times equalized value.	Three times equalized value ÷ 70 and × 100.	Net railway operating income Illinois.	Return on assessed value per cent.
Atchison, Topeka & Santa Fe	$7,036,163 00	$21,108,489 00	$30,154,984 28	$1,508,494 77	5.0025
Chicago & Alton	13,159,277 00	39,477,831 00	56,396,901 43	1,540,162 68	2.7309
Chicago & Eastern Illinois	10,685,559 00	32,056,677 00	45,795,252 85	1,167,043 48	2.5484
Chicago & North Western	19,995,803 00	59,987,409 00	85,696,298 59	7,443,519 31	8.6859
Chicago, Burlington & Quincy	27,513,354 00	82,540,062 00	117,914,374 28	9,377,827 66	7.9531
Chicago Great Western	2,325,364 00	6,976,092 00	9,965,845 71	815,224 60	8.1802
Chicago, Milwaukee & Gary	956,621 00	2,869,863 00	4,099,804 28	*104,138 55*	*2.5401*
Chicago, Milwaukee & St. Paul	7,314,698 00	21,944,094 00	31,348,705 71	4,407,193 82	14.0586
Chicago, Rock Island & Pacific	8,221,113 00	24,663,339 00	35,233,341 42	4,726,643 89	13.4152
Chicago, Terre Haute & Southeastern	1,012,512 00	3,037,536 00	4,339,337 14	437,643 72	10.0854
Cleveland, Cincinnati, Chicago & St. Louis	7,522,645 00	22,567,935 00	32,239,907 14	417,382 09	1.2946
Kankakee & Seneca [2]	352,845 00	1,058,535 00	1,512,192 85	*19,511 67*	*1.2903*
Peoria & Eastern	1,231,036 00	3,693,108 00	5,275,868 57	97,980 37	1.8571
Illinois Central	11,763,310 00	35,289,930 00	[1]93,515,646 00	4,445,172 12	4.7534
Illinois Southern	657,486 00	1,972,458 00	2,817,797 17	*15,663 22*	*.5559*
Lake Erie & Western	1,015,782 00	3,047,346 00	4,353,351 42	40,383 52	.9276
Minneapolis & St. Louis	898,770 00	2,696,310 00	3,851,871 42	237,606 96	6.1686
Mobile & Ohio	1,839,717 00	5,519,151 00	7,884,501 42	*266,451 07*	*3.3033*
St. Louis, Iron Mountain & Southern	2,909,303 00	8,727,909 00	12,468,441 42	1,124,943 17	9.0223
Southern Railway	1,434,874 00	4,304,622 00	6,149,460 00	624,985 25	10.1632
Toledo, Peoria & Western	2,412,999 00	7,238,997 00	10,341,424 28	36,811 97	.3560
Toledo, St. Louis & Western	2,005,340 00	6,016,020 00	8,594,314 28	340,911 67	3.9667
Vandalia Railroad	3,787,674 00	11,363,022 00	16,232,888 57	717,459 24	4.4198
Total, 23 roads	$136,052,245 00	$408,156,735 00	$626,182,510 22	$39,107,625 78	6.2454

[1]Actual value of Illinois Central subsidiaries included and value of Main Line based on 7% of Gross Earnings. The Illinois Central Main Line pays no taxes, but contributes 7% of its Gross Income in lieu thereof. Same figures are used by Wettling.

[2]Assessed value includes personal property valuation.

WAGE TABLE—26 ROADS.

Figures Compiled from Annual Reports of Carriers to Illinois Public Utilities Commission.

YEAR ENDED JUNE 30, 1914.

NAME OF ROAD OR SYSTEM.	Number of days worked. Entire line.	Total yearly compensation. Entire line.	Number of days worked. Illinois.	Total yearly compensation. Illinois.	Average daily compensation. Entire line.	Average daily compensation. Illinois.
Atchison, Topeka & Santa Fe	13,760,723	$35,200,674 67	1,085,990	$2,770,900 13	$2.56	$2.55
Baltimore & Ohio	17,790,655	45,771,190 66	729,168	1,838,232 60	2.57	2.52
Chicago & Alton	3,028,674	7,150,291 54	2,481,732	5,695,331 67	2.36	2.29
Chicago & Eastern Illinois	3,139,149	7,697,672 98	2,345,321	5,863,057 35	2.45	2.50
Chicago & Illinois Midland	33,427	83,334 11	33,427	83,334 11	2.49	2.49
Chicago & North Western	14,000,826	36,057,035 01	5,303,710	13,704,502 99	2.58	2.58
Chicago, Burlington & Quincy	14,641,465	36,088,864 29	5,039,083	12,507,611 18	2.46	2.48
Chicago Great Western	2,405,145	6,171,623 98	578,364	1,469,429 04	2.57	2.54
Chicago, Milwaukee & Gary	92,320	222,246 16	92,320	222,246 16	2.41	2.41
Chicago, Milwaukee & St. Paul	19,309,442	48,444,642 40	3,110,395	7,790,333 84	2.51	2.50
Chicago, Rock Island & Pacific	11,697,203	28,872,967 96	2,638,165	6,487,634 00	2.17	2.46
Chicago, Terre Haute & Southeastern	406,822	1,023,881 99	145,105	357,230 80	2.51	2.46
Cleveland, Cincinnati, Chicago & St. Louis	5,897,812	16,434,669 93	1,583,315	4,435,741 66	2.79	2.80
Kankakee & Seneca	13,824	32,908 06	13,824	32,908 06	2.38	2.38
Peoria & Eastern	274,214	725,917 00	101,206	267,168 83	2.65	2.64
Illinois Central	14,047,704	33,444,556 20	7,125,040	17,489,731 35	2.38	2.45
Illinois Southern	106,560	249,508 44	76,995	173,354 44	2.34	2.24
Lake Erie & Western	1,099,698	2,746,638 68	105,558	266,029 32	2.50	2.52
Minneapolis & St. Louis	1,508,665	3,766,209 22	160,520	394,986 90	2.50	2.46
Minneapolis, St. Paul & Sault Ste Marie	4,395,577	10,779,768 80	241,726	604,191 26	2.45	2.50
Mobile & Ohio	2,476,256	5,923,184 50	565,703	1,394,397 60	2.40	2.46
St. Louis, Iron Mountain & Southern	5,271,245	12,533,063 09	507,288	1,279,829 16	2.37	2.52
Southern Railway	13,128,512	28,961,180 85	293,385	669,119 99	2.21	2.28
Toledo, Peoria & Western	285,747	660,477 95	285,747	660,477 95	2.31	2.31
Toledo, St. Louis & Western	943,301	1,875,666 28	299,013	625,638 02	1.99	2.09
Vandalia Railroad	2,072,681	5,444,039 04	696,447	1,841,515 28	2.63	2.65
Total, 26 roads	151,827,647	$376,362,213 78	35,538,547	$88,924,833 59	$2.478	$2.495

NOTE: The above figures exclude general officers.

Total as per Wettling report, page 23. Exhibit 28	152,456,253	$382,505,604 14	35,745,955	$91,148,777 32	$2.51	$2.55
Errors in Wettling report	628,606	$6,143,390 36	107,408	$2,223,943 73	$0.032	$0.055

In addition to the above discrepancies, it will be noticed that on pages 28 and 29 of Mr. Wettling's Exhibit No. 28, the tendency of freight and passenger traffic has been to increase in Illinois and to decrease on entire line operations, to-wit:

Passengers and tons, one mile per mile of road.

Average number of passengers and tons per train mile.

and that there are more cars per train in Illinois than in entire line.

This in itself would explain the alleged contention that wages have increased one and seven-tenths cents per day in Illinois over entire line, due to the necessity for extra work. It is likewise evident that this increase is really due to the extra hours worked by men on an hourly basis, to handle the increased work

COST OF ROAD AND EQUIPMENT, ENTIRE LINE AND MILEAGE STATISTICS, ENTIRE LINE AND ILLINOIS—FIGURES FROM REPORTS OF CA

YEAR ENDED JUNE 30, 1914.

NAME OF ROAD OR CARRIER.	Cost of Road Equipment. Entire Line.	Single Track Excluding Trackage Rights. Entire Line.	Illinois.	Per Cent. of Illinois To Total.	All Tracks Excluding Trackage Rights. Entire Line.	Illinois.	Per Cent. of Illinois To Total.	Total Freight Revenue Train Miles. Entire Line.	Illinois.	Per Cent. of Illinois To Total.	Total Passenger Revenue. Train Miles. Entire Line.	Illinois.
Atchison, Topeka & Santa Fe	$620,926,116 41	$8,202 45	$ 282 36	3.44	$12,036 04	$ 674 30	5.60	16,501,163	1,096,673	6.65	20,847,266	1,438,925
Chicago & Alton	119,126,648 06	1,015 47	751 80	74.03	1,651 48	1,299 53	78.68	3,321,855	2,247,716	67.66	3,497,198	2,505,293
Chicago & Eastern Illinois	80,468,795 37	1,123 22	570 40	50.78	2,044 30	1,168 72	57.16	3,770,274	2,744,402	72.79	3,306,461	2,136,592
Chicago & North Western	353,439,362 85	3,018 16	819 71	10.22	12,488 73	2,028 28	16.24	17,922,137	2,936,500	16.39	21,537,781	5,574,578
Chicago, Burlington & Quincy	433,826,389 22	9,943 69	1,672 38	16.81	12,742 36	3,000 49	23.55	17,996,593	5,500,487	30.56	18,651,812	4,616,271
Chicago Great Western	126,692,886 72	1,411 57	153 05	10.84	1,983 57	275 03	13.86	2,873,129	546,912	19.04	3,228,344	444,146
Chicago, Milwaukee & Gary	11,257,261 34	107 50	107 50	100.00	128 17	128 17	100.00	149,312	149,312	100.00	192	192
Chicago, Milwaukee & St. Paul	544,616,587 26	9,609 79	413 39	4.30	13,807 82	1,077 74	7.80	21,274,736	2,085,569	9.79	19,142,199	2,329,072
Chicago, Rock Island & Pacific	237,087,396 33	7,209 97	364 83	5.06	9,708 60	949 92	9 78	16,142,698	1,784,343	11.05	18,322,470	2,900,450
Chicago, Terre Haute & Southeastern	24,783,755 90	362 22	114 24	31 53	560 29	151 31	27.00	494,948	190,209	38.43	317,970	.....
Cleveland, Cincinnati, Chicago & St. Louis	134,078,175 71	2,215 38	649 92	29.33	3,954 89	1,151 25	29.11	8,185,090	2,221,433	27.14	8,007,844	2,173,329
Kankakee & Seneca	702,979 31	42 50	42 50	100.00	50 47	50 47	100.00	55,493	55,493	100.00	46,942	46,942
Peoria & Eastern	24,607,623 21	337 92	122 84	36 35	482 42	186 38	38.63	471,107	176,571	37.48	413,025	154,806
Illinois Central	129,763,159 69	4,562 41	2,024 19	44.36	7,464 77	3,546 08	47.50	18,682,591	8,329,643	44.63	13,467,732	7,142,114
Illinois Southern	8,167,207 90	133 41	90 25	67 64	169 14	113 38	67.03	159,015	99,282	62.44	169,953	138,219
Lake Erie & Western	36,095,465 00	871 80	118 58	13.60	1,155 24	146 38	12.67	1,935,999	253,650	13 36	1,339,714	178,986
Minneapolis & St. Louis	62,634,270 76	1,537 41	89 20	5.80	1,896 53	127 19	6.71	2,916,621	317,603	10.89	2,244,076	123,349
Mobile & Ohio	41,555,131 66	933 36	158 83	17.02	1,230 98	236 87	18.49	4,946,024	1,093,191	22.10	2,038,983	309,382
St. Louis, Iron Mountain & Southern	161,450,696 84	3,211 75	218 34	6 80	4,507 79	456 50	10.13	6,901,399	754,769	10.94	6,391,780	153,795
Southern Railway	362,607,587 58	6,525 24	157 11	2.41	9,268 64	253 70	2.74	16,642,849	499,732	3.00	19,250,065	398,339
Toledo, Peoria & Western	9,530,199 33	230 70	230 70	100.00	280 84	280 84	100.00	380,625	380,625	100.00	566,592	566,592
Toledo, St. Louis & Western	39,372,700 75	450 58	179 49	39.83	625 01	238 14	38.11	1,799,785	717,034	39.84	759,831	302,717
Vandalia Railroad	34,579,709 89	802 83	300 06	37.37	1,335 45	466 45	34.93	3,039,634	1,229,929	40.46	2,865,064	1,332,603
Total, 23 roads	$3,597,370,107 18	$68,859 33	$9,631 67	13.99	$99,623 53	$18,007 12	18.07	$166,563,077	$35,424,078	21.27	166,413,304	34,855,692

Ratio of Freight and Passenger to Total			
Entire Line		Illinois	
Freight	Passenger	Freight	Passenger
51.17	48.83	51.27	48.73

YEAR ENDED JUNE 30, 1914.

All Tracks uding Trackage Rights. re Line.	Illinois.	Per Cent. of Illinois To Total.	Total Freight Revenue Train Miles. Entire Line.	Illinois.	Per Cent. of Illinois To Total.	Total Passenger Revenue. Train Miles. Entire Line.	Illinois.	Per Cent. of Illinois To Total.	Locomotive Miles. Freight. Entire Line.	Illinois.	Locomotive Miles. Passenger. Entire Line.	Illinois.	No. Tons Carried. Freight Earning Illinois	Number Passengers Carried—Revenue. Entire Line.	Illinois.
,036 04	$ 674 30	5.60	16,501,163	1,096,673	6.65	20,847,266	1,438,925	6.90	18,333,110	1,168,705	22,168,266	1,506,368	2,889,162	11,882,779	759,640
,651 48	1,299 53	78.68	3,321,855	2,247,716	67.66	3,497,198	2,505,293	71.64	3,455,928	2,318,228	3,596,346	2,576,190	8,172,353	3,909,200	3,038,115
,044 30	1,168 72	57.16	3,770,274	2,744,402	72.79	3,306,461	2,136,592	64.62	3,860,933	2,859,208	3,486,129	2,261,957	10,076,756	5,149,170	2,777,689
,488 73	2,028 28	16.24	17,922,137	2,936,500	16.39	21,537,781	5,574,578	25.88	19,006,901	3,166,207	22,072,972	5,720,790	4,822,951	33,389,428	18,575.152
,742 36	3,000 49	23.55	17,996,593	5,500,487	30.56	18,651,812	4,616,271	24.75	19,637,043	5,938,679	19,101,009	4,735,608	18,220,233	23,445,911	10,334,849
,983 57	275 03	13.86	2,873,129	546,912	19.04	3,228,344	444,146	13.75	3,237,798	627,946	5,275,961	445,741	2,751,785	2,817,637	252,986
128 17	128 17	100.00	149,312	149,312	100.00	192	192	100.00	149,566	149,566	192	192	818,971	1,369	1,369
,807 82	1,077 74	7.80	21,274,736	2,085,569	9.79	19,142.199	2,329,072	11.59	25,135,379	2,557,743	19,994,048	2,377,497	13,640,091	16,426,016	2,735,742
,708 60	949 92	9 78	16,142,698	1,784,343	11.05	18,322,470	2,900,450	15.83	16,624,414	1,821,387	18,543,552	2,981,884	7,966,175	20,064,379	7,063,627
560 29	151 31	27.00	494,948	190,209	38.43	317,970	.....	.....	501,579	190,936	330,803	.....	1,868,855	947,399	.....
,954 89	1,151 25	29.11	8,185,090	2,221,433	27.14	8,007,844	2,173,329	27.14	8,632,812	2,342,945	8,390,457	2,277,170	6,901,971	8,268,038	2,243,946
50 47	50 47	100.00	55,493	55,493	100.00	46,942	46,942	100.00	55,235	55,235	47,032	47,032	420,602	54,729	54,729
482 42	186 38	38.63	471,107	176,571	37.48	413,035	154,806	37.48	479,230	179,615	426,541	159,868	711,864	493,365	184,913
,464 77	3,546 08	47.50	18,682,591	8,339,643	44.63	13,467,732	7,142,114	53.03	19,372,444	8,630,169	13,864,423	7,401,040	22,536,854	27,522,774	21,295,565
169 14	113 38	67.03	159,015	99,282	62.44	169,953	138,219	81.33	175,241	106,705	169,953	138,219	1,140,305	212,913	185,986
,155 24	146 38	12.67	1,935,999	258,650	13 36	1,339,714	178,986	13.36	2,017,877	269,588	1,359,108	181,577	730,663	1,606,315	214,604
,896 53	127 19	6.71	2,916,621	217,603	10.89	2,244,076	123,349	5.50	3,377,947	370,400	2,298,667	125,625	1,685,424	2,479,602	227,875
,280 98	236 87	18.49	4,946,024	1,093,191	22.10	2,038,983	309,382	15.17	5,563,447	1,446,802	2,039,939	309,511	2,786,082	2,202,092	326,606
,507 79	456 50	10.13	6,901,399	754,769	10.94	6,391,780	153,795	15.37	7,111,904	765,813	6,482,119	154,988	6,018,241	8,096,908	188,779
,268 64	253 70	2.74	16,642,849	499,732	3.00	19,250,065	398,339	2.07	17,493,405	517,924	19,643,842	410,876	2,614,305	19,634,498	483,822
280 84	280 84	100.00	380,625	380,625	100.00	566,592	566,592	100.00	395,589	395,589	578,169	578,169	967,622	1,172,102	1,172,102
625 01	238 14	38.11	1,799,785	717,034	39.84	759,831	302,717	39.84	1,931,134	769,364	775,206	308,842	1,440,581	504,418	200,960
,335 45	466 45	34.93	3,039,634	1,229,929	40.46	2,865,064	1,332,603	46.50	3,296,998	1,293,244	2,966,851	1,367,593	4,214,285	3,094,472	1,150,840
,623 53	$18,007 12	18.07	$166,563,077	$35,424,078	21.27	166,413,304	34,855,692	20.95	179,845,932	37,941,998	171,611,585	36,066,737	123,396,132	193,375,514	73,469,896

ON WETTLING'S EXHIBIT No. 28, PAGE 3:

The Toledo, Peoria & Western shows a greater mileage operated in Illinois than on Entire Line.

In column 1914 for Entire Line the total is 111,659.42, instead of 110,699.42, as shown on Exhibit.

PAGE 17, WETTLING'S EXHIBIT No. 28:

The Lake Erie & Western Road is shown on this page as having a deficit of $317,948.90. The report of the carriers to the State of Illinois shows an earning of $311,202.39. The deficit shown is caused by improperly including interest deductions for funded and unfunded debt. This has also been done on page 10 for the same road in the case of the Illinois operation of this road. A deficit being shown where an earning should be shown.

PAGE 19, WETTLING'S EXHIBIT No. 28.

ILLINOIS.

The assessed values of 26 roads for 1914, as shown by the report of the Illinois State Board of Equalization for that year, are $689,975,984.00, instead of $699,284,175.58, as shown. This would change the figures in every column of the Exhibit for the year 1914, except the column of average miles operated, net operating income, and net operating income per mile.

ENTIRE LINE.

The cost of Road and Equipment for 26 roads, entire line, as shown by the carriers in their report to the State of Illinois, is $4,058,431,197.87, instead of $4,463,979,286.61, as shown. This necessarily changes the computation based upon these figures. Also, on these pages the net operating income, as shown by the carriers in their reports to the State of Illinois, is as follows:

Illinois	$29,016,354 98	Entire line.....	$176,904,283 23
Wettling's figures..	28,865,031 13	Wettling's figures	185,013,401 42
Error	$151,323 85	Error	$8,109,118 19

When the corrected figures are used an entirely different story is told.

PAGE 26, WETTLING'S EXHIBIT No. 28:

Please note that the State of Illinois is charged with 19.53% of the total Maintenance of Way and Structure charges, whereas Illinois has but 13.04% of the road mileage. This would indicate that very heavy yard terminal charges have been assigned to the State of Illinois.

ON WETTLING'S EXHIBIT No. 28, PAGE 27:

Maintenance of Way and Structure Charges have been assigned to Illinois in the proportion of 19.53% of the Total Charges. This charge has been allocated to Freight and Passenger on the same basis of assignment; *i. e.*, 19.53% Freight and 19.53% Passenger.

Maintenance of Equipment has been handled in the same manner, excepting tthat the proportion used is 22.26% in each case.

It is, therefore, manifest that these allocations have been unfairly made and that the Maintenance Cost per Freight and Passenger Car Mile, as shown on this page, are in error and valueless.

The greatest factor causing the difference in results arrived at in the Exhibits submitted herewith and the Wettling Exhibits is the method used in apportioning the expenses to the State of Illinois.

The working papers sent this Commission by Mr. Wettling show that many of the 23 roads cited in this case did not keep their records in such a way as to show the division between Freight and Passenger, and everything was reported as Common.

From an Analysis of the Working Papers and of the Reports of the Carriers to this State it would appear that a proportion of the total Entire Line Operating Expenses has been assigned to the State of Illinois and then divided between Freight and Passenger on various bases.

In preparing the Exhibits presented herewith a portion of the Entire Line Freight Expenses has been assigned to Illinois in the ratio that the Illinois Freight Revenue Train Miles bears to the total Freight Revenue Train Miles, and the Passenger Expenses on the basis of Passenger Revenue Train Miles.

In addition to the foregoing, there are a great many discrepancies between the reports of the Carriers to the State of Illinois and the Wettling Exhibits.

STATEMENT OF ASSESSED AND FULL VALUES PER MILE OF MAIN TRACK AND THE ASSESSED AND FULL VALUES OF ROLLING STOCK PER FOOT OF MAIN TRACK.

Figures Taken From Report of State Board of Equalization.

YEAR ENDED JUNE 30, 1914—23 ROADS.

	Assessment of Main Track per Mile.	Assessment of Rolling Stock per Foot of Main Track.	Full Value of Main ÷ 70 and × 100.	Full Value of Rolling ÷ 70 and × 100.
Atchison, Topeka & Santa Fe	$12,500 00	$ .307804	$53,571 43	$1.31916
Chicago & Alton	11,500 00	.695490	49,285 71	2.98067
Chicago & Eastern Illinois	8,700 00	1.029718	37,285 71	4.41307
Chicago & North Western	17,000 00	.441790	72,857 14	1.89338
Chicago, Burlington & Quincy	11,500 00	.386768	49,285 71	1.65758
Chicago Great Western	9,500 00	.347572	40,714 29	1.48959
Chicago, Milwaukee & Gary	7,000 00	.174906	30,000 00	.74959
Chicago, Milwaukee & St. Paul	7,700 00	.384561	33,000 00	1.64812
Chicago, Rock Island & Pacific	15,000 00	.262628	64,285 71	1.12554
Chicago, Terre Haute & Southern	6,200 00	.237760	26,571 43	1.01897
Cleveland, Cincinnati, Chicago & St. Louis — Cairo Div.	5,400 00	.652294	23,142 86	2.79554
Cleveland, Cincinnati, Chicago & St. Louis — St. Louis Div.	9,500 00	.652294	40,714 29	2.79554
Kankakee & Seneca	4,500 00	.652294	19,285 71	2.79554
Peoria & Eastern	6,000 00	.308166	25,714 29	1.32071
*Illinois Central	.....	.....	.....	.....
Illinois Southern	5,000 00	.200702	21,428 57	.86015
Lake Erie & Western	6,000 00	.272820	25,714 29	1.16923
Minneapolis & St. Louis	6,800 00	.252790	29,142 86	1.08338
Mobile & Ohio	6,500 00	.509688	27,857 14	2.18438
St. Louis, Iron Mountain & Southern	7,500 00	.264358	32,142 86	1.13296
Southern Railway	5,400 00	.238639	23,142 86	1.02273
Toledo, Peoria & Western	7,500 00	.344978	32,142 86	1.47847
Toledo, St. Louis & Western	8,000 00	.354686	34,285 71	1.52008
Vandalia Railroad	10,000 00	.578813	42,857 14	2.48063

*The Illinois Central is not shown for the reason that it pays in lieu of taxes 7% of its gross earnings.

NAME OF ROAD OR SYSTEM.	Rate Per Cent of Dividends Paid		Disposition of Net Income				Deductions Paid From Income During Year Ending June 30, 1914.			Appropriations and Extinguishments Through Surplus		
	Common	Preferred	Dividends	To Reserve Funds	To Additions and Betterments	Miscellaneous Appropriations	Funded Debt	Unfun'd Debt	Amortization of Discount on Funded Debt	Sinking and other Reserve	Dividends	D
Atchison, Topeka & Santa Fe	6%	3%	$17,400,440 00	$51,485 83	$2,719,317 76	.....	$12,624,769 06	$515 37	.....	.....	.....	...
Chicago & Alton	.....	.....	.....	.....	.....	.....	3,109,397 90	4,790 61	$115,005 43	.....	.....	...
Chicago & Eastern Illinois	.....	.....	.....	2,366 67	.....	.....	3,255,929 27	528,190 84	.....	.....	.....	$1
Chicago & North Western	7%	8%	10,899,615 00	200,472 61	.....	.....	9,239,007 59	12,186 22	.....	.....	.....	8
Chicago, Burlington & Quincy	8%	.....	8,867,128 00	659,861 03	5,715,875 07	.....	8,499,051 11	128,707 50	44,516 16	.....	.....	...
Chicago Great Western	.....	.....	.....	.....	1,100 00	$1,100 00	1,512,580 00	1,250 52	13,416 07	.....	.....	...
Chicago, Milwaukee & Gary	.....	.....	.....	.....	.....	.....	97,450 39	4,129 11	.....	.....	.....	...
Chicago, Milwaukee & St. Paul	5%	7%	.....	136,894 00	.....	.....	13,254,822 89	346,346 81	.....	$92,270 00	$13,928,976 00	$3
Chicago, Rock Island & Pacific	2½%	.....	.....	.....	.....	.....	9,934,168 74	183,270 88	.....	.....	1,871,762 50	$2
Chicago, Terre Haute & Southeastern	.....	.....	.....	.....	.....	.....	563,116 61	83,536 14	2,409 70	.....	.....	...
Cleveland, Cincinnati, Chicago & St. Louis	.....	.....	.....	25,500 00	.....	.....	3,985,155 24	404,179 33	.....	.....	.....	...
Kankakee & Seneca	.....	.....	.....	.....	300 84	.....	39,000 00	.....	.....	.....	.....	...
Peoria & Eastern	.....	.....	.....	2,220 00	122,325 69	.....	202,130 00	1,259 09	.....	.....	.....	...
Illinois Central	5%	.....	.....	.....	41,642 66	.....	6,094,528 06	159,088 74	.....	.....	5,464,597 50	$6
Illinois Southern	.....	.....	.....	.....	.....	.....	87,927 22	756 36	130 54	.....	.....	...
Lake Erie & Western	.....	.....	.....	.....	.....	.....	548,750 00	95,753 91	.....	.....	.....	...
Minneapolis & St. Louis	.....	.....	.....	.....	.....	.....	1,850,102 41	196,098 45	23,804 91	.....	.....	...
Mobile & Ohio	4%	.....	.....	.....	23,738 00	.....	1,494,068 34	5,406 94	.....	.....	240,680 00	$
St. Louis, Iron Mountain & Southern	4%	.....	1,775,649 00	.....	.....	.....	6,740,640 47	72,764 17	.....	.....	.....	4
Southern Railway	.....	5½	2,700,000 00	35,875 00	91,928 91	.....	10,939,596 37	37 93	.....	550,000 00	.....	1
Toledo, Peoria & Western	.....	.....	.....	.....	.....	.....	196,711 67	27,942 22	.....	.....	.....	...
Toledo, St Louis & Western	.....	.....	.....	20,208 00	.....	.....	1,075,030 35	17,725 86	.....	.....	.....	
Vandalia Railroad	4%	.....	.....	170,213 60	.....	.....	791,981 90	1,904 69	.....	.....	584,566 00	...
Total, 23 roads			$41,642,822 00	$1,305,096 74	$8,715,128 93	$1,100 00	$96,130,915 59	$2,275,841 69	$199,282 81	$642,270 00	$22,090,582 00	$3,6

Total Dividends Paid From Income	$41,642,822 00
Total Dividends Paid From Surplus	22,090,582 00
Total Dividends Paid	$63,733,404 00
Total Reserves Made	1,947,366 74
Total Apportioned for Betterments	8,715,128 93
Total Debts and Discounts Paid	102,272,497 86
Total Retirements of Road and Equipment	3,477,614 69
Delayed Income Debits and Miscellaneous Payments	8,368,762 76
Total Disbursements	$188,514,774 98

T—23 ROADS—ENTIRE LINE.

ED JUNE 30, 1914.

of the Carriers to the State of Illinois.

uishments s	Discount	Loss on Retired Road and Equipment	Delayed Income Debits	Misc'laneous Debits	Financial Standing June 30, 1914 Surplus	Financial Standing June 30, 1914 Deficit	Cost of Road and Equipment	For Value of Stock Outstanding Common	For Value of Stock Outstanding Preferred	Total Par Value	Par Per Share	Present Value	Surplus Applicable to Dividend	Surplus Equivalent to Return on Cost of Road Equipment
					$20,569,800 81		$620,926,116 41	$195,811,500 00	$114,173,730 00	$309,985,230 00	$100	$106 64	6.64%	3.31%
....	.....	$310,221 92	$62,088 40	$166,022 82	.....	$5,715,441 90	119,126,648 06	19,507,800 00	20,161,000 00	39,668,800 00	100	85 59	.....	.....
....	.....	.....	.....	.....	.....	1,015,731 81	80,468,795 37	7,217,800 00	11,070,000 00	18,287,800 00	100	94 45	.....	.....
....	$12,697 13	81,775 47	345,266 62	.....	35,998,882 89	.....	353,439,362 85	130,117,028 82	22,395,120 00	152,512,148 82	100	123 60	23.60%	10.73%
....	844,497 20	1,098,782 46	69,316 00	10,670 39	93,194,106 96	.....	433,826,389 22	110,839,100 00	.....	110,839,100 00	100	184 68	84.08%	21.48%
....	.....	138,104 10	.....	266,173 76	3,666,415 44	.....	126,692,886 72	45,246,913 00	43,899,402 00	89,146,315 00	100	104 11	4.11%	2.89%
....	.....	5,765 83	80,412 65	101,432 54	.....	1,934,317 77	11,257,261 34	5,500,000 00	.....	5,500,000 00	10	64 83	.....	.....
....	.....	.....	.....	.....	40,860,896 18	.....	544,616,587 26	116,850,100 00	115,845,800 00	232,695,900 00	100	117 56	17.56%	7.50%
5 00	898,646 46	809,801 57	2,480,602 45	43,752 98	6,199,841 08	.....	237,087,396 23	74,372,322 50	.....	74,372,322 50	100	198 34	8.34%	2.62%
2 50	502,845 00	754,916 81	939,661 09	1,221,164 35	232,103 33	.....	24,783,755 99	4,300,000 00	.....	4,300,000 00	100	105 40	5.04%	0.94%
....	.....	.....	.....	5,629 11	.....	4,433,055 23	134,072,175 71	47,028,700 00	9,998,500 00	57,027,200 00	100	92 23	.....	.....
....	.....	.....	33,198 06	274,757 22	.....	1,386,368 36	702,979 31	10,000 00	.....	10,000 00	50	None	.....	.....
....	.....	.....	.....	.....	.....	37,096 59	24,607,623 21	9,999,200 00	.....	9,999,200 00	100	99 63	.....	.....
....	.....	.....	.....	2,169 38	.....	.....	129,763,159 69	109,284,616 67	9,989,700 00	119,274,316 67	100	103 40	3.40%	3.12%
7 50	683,490 00	18,868 49	135,040 00	527,502 60	4,053,574 33	.....	8,167,207 90	4,000,000 00	1,000,000 00	5,000,000 00	1000	988 24	.....	.....
....	.....	.....	3,465 42	.....	.....	58,489 22	36,095,465 00	11,840,000 00	11,840,000 00	23,680,000 00	100	98 15	.....	.....
....	.....	6,126 42	19,359 43	2,391 82	.....	438,976 21	62,634,270 76	15,205,620 00	5,833,170 00	21,038,790 00	100	101 36	1.36%	0.46%
....	.....	74,634 70	197,968 54	351,012 91	285,841 31	.....	41,555,131 66	6,017,000 00	.....	6,017,000 00	100	184 74	84.74%	12.27%
0 00	91,878 81	4,964 27	99,081 15	42,130 22	5,098,527 33	.....	161,450,696 84	44,391,298 00	.....	44,391,298 00	100	100 54	0.54%	0.01%
....	443,051 92	89,124 80	.....	739,779 56	239,023 61	.....	362,607,587 58	120,000,000 00	60,000,000 00	180,000,000 00	100	110 28	10.28%	5.15%
....	189,320 00	37,528 98	20,740 41	116,482 97	18,676,904 51	.....	9,530,199 33	4,076,900 00	.....	4,076,900 00	100	85 91	.....	.....
....	.....	680 44	.....	49 33	.....	574,265 74	39,372,700 75	9,995,000 00	9,952,600 00	19,947,600 00	100	113 76	13.76%	6.87%
....	31 25	41,586 69	.....	10,340 58	2,745,151 36	.....	34,579,709 89	14,613,950 00	.....	14,613,950 00	100	103 56	3.56%	1.51%
6 00	.....	4,731 74	.....	.....	520,915 58	.....								
2 00	$3,666,457 77	$3,477,614 69	$4,486,200 22	$3,881,462 54	$232,341,984 72	$15,593,742 83	$3,597,370,107 18	$1,106,224,848 99	$436,159,022 00	$1,542,383,870 99		$114 05	14.05%	6.03%
			Net Surplus.....		$216,748,241 89									

PURPOSE OF THIS EXHIBIT.

The 23 Roads named herein and consolidated as a single system have, during the year, extinguished debts and made appropriations and reserves amounting to $188,514,774.98, and have paid $63,733,404.00 in dividends or 4.132 per cent on their capital stock or 1.772 per cent on Cost of Road and Equipment. In addition to that they have a surplus of $216,748,241.89, which amounts to 14.05 per cent on their capital stock or a return of 6.03 per cent on Cost of Road and Equipment.

Also these roads have assets in the shape of Stock, Bonds, Mortgages and Various Securities, which have not been considered here and which amount to many millions of dollars.

In addition to the foregoing, which applies to what is generally considered to be a poor year (1914), financial and other papers report much increased business at present and indicate a continuance of same.

MAPS

TOO

LARGE

FOR

FILMING

2160 Illinois Commissioners' Classification.

No. 10.

State of Illinois.

Railroad and Warehouse Commission.

Springfield.

Schedule of Reasonable Maximum Rates for the Transportation of Passengers and Freights and Cars, Together With a Classification of Railroads and Freights, in the State of Illinois.

Effective July 1st, 1906, Superseding all Previous Issues.

Prepared and Adopted by the Board of Railroad and Warehouse Commissioners under the provisions of "An Act to prevent extortion and unjust discrimination." Section 8. In force July 1st, 1885.

2161 It is ordered: That on and after July 1st, 1906, the several railroads doing business in the State of Illinois, be classified in the following manner:

The—
Atchison, Topeka & Santa Fe,
Baltimore & Ohio,
Baltimore & Ohio Southwestern,
Belt Railway of Chicago,
Chicago & Alton,
Chicago Terminal Transfer,
Chicago & Eastern Illinois,
Chicago & Erie,
Chicago & Illinois Southern,
Chicago & Northwestern,
Chicago & Western Indiana,
Chicago, Burlington & Quincy,
Chicago Heights Terminal Transfer,
Chicago Junction,
Chicago, Lake Shore & Eastern,
Chicago, Milwaukee & St. Paul,
Chicago, Rock Island & Pacific,
Chicago Short Line,
Chicago Great Western,
Cincinnati, Indianapolis & Western,
Cleveland, Cincinnati, Chicago & St. Louis,
Elgin, Joliet & Eastern,
Grand Trunk Western,
Illinois Central,
Illinois, Iowa & Minnesota,
Indiana, Illinois & Iowa,

Lake Erie & Western,
Lake Shore & Michigan Southern,
Macoupin County Railway,
Michigan Central,
Mobile & Ohio,
New York, Chicago & St. Louis,
Pennsylvania Co.,
Peoria & Pekin Union,
Pittsburg, Cincinnati, Chicago & St. Louis,
Pittsburg, Ft. Wayne & Chicago,
Southern Ry.,
St. Louis, Iron Mountain & Southern,
St. Louis Merchants Bridge,
Terminal Railroad Association of St. Louis,
Terre Haute & Indianapolis,
Vandalia Railroad,
Wabash, and
Wisconsin Central,

Shall be Roads of Class "A."

2162 The—

Calumet Western,
Chicago & Illinois Midland,
Chicago & Illinois Western,
Chicago, Peoria & St. Louis,
Chicago, Peoria & Western,
Chicago Union Transfer,
Chicago, West Pullman & Southern,
Davenport, Rock Island & Northwestern,
East St. Louis Connecting,
Galesburg & Great Eastern,
Granite City & Madison Belt Line,
Illinois Northern,
Illinois Southern Ry.,
Illinois Terminal,
Illinois Valley Belt,
Iowa Central,
Kankakee & Seneca,
La Salle & Bureau County,
Louisville & Nashville,
Oglesby & Granville,
Peoria & Pekin Terminal,
Quincy, Omaha & Kansas City,
St. Louis, Troy & Eastern,
St. Louis & O'Fallon,
Terre Haute & Peoria,
Toledo, Peoria & Western,
Toledo, St. Louis & Western,
Toluca, Marquette & Northern,
Venice Terminal,
Wabash, Chester & Western,
Waukegan & Miss. Valley Ry.,

The—
Alton, Granite & St. Louis Traction Co.,
Aurora, Elgin & Chicago Ry.,
Bloomington, Pontiac & Joliet Electric Ry.,
Chicago & Joliet Electric Ry.,
Chicago & Milwaukee Electric Ry. R.,
Chicago General Ry.,
Chicago, Harvard & Geneva Lake,
Chicago & Oak Park Elevated R. R.,
Coal Belt Electric Ry.,
DeKalb-Sycamore Electric Co.,
East St. Louis & Suburban Ry.,
Edwardsville, Alton & St. Louis Traction Co.,
Elgin, Aurora & Southern Traction Co.,
Freeport Railway, Light & Power Co.,
Galesburg & Kewanee Electric Ry. Co.,
Galesburg, Monmouth & Rock Island Ry. Co.,
Illinois Traction System,
Chicago, Bloomington & Decatur Ry.,
Danville, Urbana & Champaign Ry.,
Decatur & Springfield Ry.,
St. Louis & Northeastern Ry.,
St. Louis & Springfield Ry.,
Illinois Valley Ry.,
Joliet, Plainfield & Aurora R. R.,
Keokuk & Western Illinois Electric Co.,
Macomb & Western Illinois Ry.,
Metropolitan West Side Elevated Ry.,
Mississippi Valley Traction Co.,
Northwestern Elevated R. R.,
Peoples Traction Co.,
Rockford & Interurban Ry.,
Sterling, Dixon & Eastern Electric Ry.,
South Side Elevated R. R. Co.,
Suburban R. R. Co.,
Shall be Roads of Class "B."

2163 Any corporation, company or receiver operating any one of the roads above named, shall, on and after said 1st day of July, 1906, be entitled to charge the maximum freight and passenger rates, which may then be in force, or may thereafter be established by this Commission, for roads of the class to which such roads belongs, and no more, under penalty of the statute concerning extortion.

Roads of Class "A" shall be entitled to charge the rates provided in this Classification and Schedule.

Roads of Class "B" shall be entitled to add ten per cent. to the rates as provided in this Classification and Schedule for classes one to five, inclusive, and five per cent. for classes six to ten, inclusive, and commodity rates.

The fact that the name of any such railroad may be changed, or that a different company may assume control of it shall not operate

to change the class of such railroad unless this Commission shall so order.

Any new road which may at any time hereafter be put in operation in this State, and all roads which may at any time, through mistake or other cause, be unclassified, shall be roads of Class "B" until such time as they shall be otherwise assigned by order of the Commission.

Witness our hands this 5th day of June, A. D, 1906.

(Signed) JAMES S. NEVILLE, *Chairman,*
ARTHUR L. FRENCH,
ISAAC L. ELLWOOD,
Commissioners.

Attest:

WILLIAM KILPATRICK,
Secretary.
CHAS. J. SMITH,
Assistant Secretary.

2164 Passengers.

The Passenger Rate on each of said roads shall not be to exceed three cents per mile for the transportation of any person, with ordinary baggage not exceeding 150 pounds in weight.

Provided, said railroad corporation shall not charge, collect or receive more than one-half the above rate for transportation of children between the ages of five and twelve years.

No road will be required to carry a passenger for less than five cents, and the fare shall be three cents per mile for any distance of two or more miles.

In computing fares, the distance shall be multiplied by the rate, and when the fraction of one cent is one-half or over, it shall be reckoned as one cent, and for a fraction of less than one-half cent the same shall not be computed.

2165 The Business Men's League of St. Louis, 510 Locust St., 1915.

Telephones: Bell, Main 4620—Kinloch, Central 7565.

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2166 *Objects of the League.*

(Organized and Incorporated in 1894.)

To unite the merchants, manufacturers, professional men and other citizens of St. Louis for the following purposes:

1. To promote the interests of the City of St. Louis in every avenue of trade and commerce;
2. To oppose discrimination against these interests by any corporation, organization or association;
3. To guard against and oppose legislation and taxation inimical to the City and State;
4. To co-operate with the railroad and river interests;
5. To maintain and secure favorable railway rates through all our territorial connections;
6. To entertain distinguished visitors, and to direct their attention to points of interest;
7. To encourage the holding of conventions in this city;
8. To inform and influence corporations or individuals contemplating a change of location;
9. To foster manufacturing and commercial enterprises of every character;
10. To keep the city's greatness constantly before the people of this country and other countries; and
11. To secure by all legitimate means the greatest good for the greatest number of the people of St. Louis.

2167 In the Supreme Court of the United States.

No. 955.

ILLINOIS CENTRAL RAILROAD COMPANY, Appellant,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Appellees.

(29 Cases Consolidated.)

Stipulation Concerning the Printing of the Record.

March 10, 1917.

In the above case, it is mutually agreed between appellants and appellees that of the transcript of record sent up by the Clerk of the District Court of the Northern District of Illinois, Eastern Division, at Chicago, the following parts thereof shall be printed as sent up, and the following other parts thereof shall be omitted, all as indicated below:

1. All of Volume I of the record shall be printed, comprising

pages 1 to ——, inclusive. Appellants will furnish printed copies of Exhibits A and D to bill of complaint.

2. Of Volume II, the following parts shall be printed: The abbreviated caption and paragraph 1 of Section First, also all of Section Fourth, in the bills filed by each of the following carriers shall be printed: Atchison, Topeka & Santa Fe Ry. Co., Chicago, Burlington & Quincy R. R. Co., Chicago & Alton R. R. Co., Chicago, Milwaukee & St. Paul Ry. Co., Southern Railway Company. The bill of complaint and other pleadings in Volume II in Chicago & North Western Railway Case No. 801 shall be printed.

3. C. P. & St. L. Exhibit No. 1, being the decree against the operation of the 2-cent fare law in Illinois on the Chicago, Peoria & St. Louis Railroad, shall be printed.

3½. Of C. M. & St. P. Exhibit A reduced copies will be furnished for binding into the record.

4. All of Defendants' Exhibit 5 shall be printed except—

(*a*) Exhibit A to the intervening petition of the State Public Utilities Commission of Illinois, being the statute of Illinois entitled, "An Act to Provide for the Regulation of Public Utilities."

2168 Printed copies of said Act will be furnished for binding into the record.

(*b*) Report and order of Interstate Commerce Commission made July 12, 1916, order of Interstate Commerce Commission made September 6, 1916, order of Interstate Commerce Commission made October 11, 1916, supplemental report of the Interstate Commerce Commission and its order made October 17, 1916, shall be omitted, comprising pages —— to —— of said Exhibit 5. Said reports and orders are contained in plaintiff's bill of complaint, and are printed as a part of said bill.

5. Of Defendants' Exhibit 4-A, (containing an abstract of Defendants' Exhibits 3 and 4), there shall be printed the following:

(*a*) Print the brown cover; the first inside cover; Roman pp. I, II, III, and IV, omitting the first two lines following the word "Index" on p. I.

(*b*) Omit Roman pp. V, VI, and VII.

(*c*) Print p. 1 down to the word "Statement."

(*d*) Omit rest of p. 1 and all of pages 2 to 21, inclusive.

(*e*) Print pp. 22 to 110, inclusive, (being the abstract of evidence for complainant before the Commission).

(*f*) Print the word "Appendix" (appearing ahead of tables pp. 1 to 94). Of these tables, pp. 85 to 92, inclusive, being Versen Exhibits 15 and 27, shall be printed. Plates of said tables will be furnished by appellants for this purpose. Print first three lines of p. 93, also the first three lines on p. 94, omitting remainder of said pages, but inserting in lieu thereof the following: "Note: Said exhibit is printed in full at p. —— of this record," giving reference to said pages.

(*g*) Print cover of "Brief and Argument for Respondents."

(*h*) Of the "Contents", Roman pp. I to IX, omit Part I and Section 1; print Section 2, Appearances; omit Sections 3, 4, and 5; print the rest from and including "Part II, Passenger Traffic," on

Roman p. I down to, but not including, "Part III, Freight Traffic," on Roman p. III; omit the rest on Roman p. III and all on p. IV and p. V.

Print all of Sections 29 and 36 on Roman p. VI, also all of Sections 38, 40, and 41 at Roman p. VII.

Print "Part IV, Financial Data—Freight and Passenger," etc., and all that follows on Roman p. VII down to and including all of Section 46 on p. VIII. Omit the rest of p. VIII and omit all of p. IX.

2169 (*i*) Print caption down to "Part I," etc., on p. 1; omit the rest of p. 1 and p. 2 down to "Section 2." Print all of "Section 2, Appearances," and what follows on p. 1, omitting pp. 2 to 6, down to "Section 4." Print beginning with "Section 4" on p. 6 and ending with "(1700-2)" on p. 7.

Print all of pp. 18 to 119, both inclusive, Plates will be furnished by appellants for the tables at pp. 33, 35-39, 42-44, 46, 47, 49, 53, 54, 56, 60-71, 74-75, 79-81.

Omit all of pp. 120 to 251 down to "Section 29." Print all of Section 29 at pp. 251 to 258, inclusive.

Omit all of pp. 259 to 279, inclusive. Print all of Section 36 at pp. 280-281.

Omit Section 37 at p. 281 down to p. 291.

Print all of Section 38 at pp. 291 to 294, ending with "(1012-13)." Copies of the blueprint opposite p. 292 will be furnished by appellants.

Omit all of Section 39 at p. 294 to p. 310.

Print all of Sections 40 and 41 at pp. 310 to 316, both inclusive.

Omit the blue insert between pp. 316 and 317.

Print all of pp. 317 to 362, both inclusive. Plates will be furnished by appellants for the tables at pp. 321, 322, 343-351.

(*j*) Print cover of "Brief and Argument for State Public Utilities Commission of Illinois," etc., signed by Patrick J. Lucey and others.

Omit index and cases cited.

Print caption and title down to "Statement" on p. 1. Omit rest of p. 1 and all of pp. 2 to 6, inclusive.

Print pp. 7, 8, and 9. Omit p. 10.

Print "Appendix," etc., preceding "Finding List." Print "Finding List" and said 21 tables, from plates to be furnished by appellants.

6. Of Defendants Exhibit 1, being the railroad map of
2170 Illinois, copies will be furnished for binding into the record.

7. Of Defendants' Exhibit 6, being the statement of revenue and operating expenses of certain roads for 1915 and 1916, copies will be furnished for binding into the record.

8. Of Defendants' Exhibit 4 (being the exhibits produced before the Interstate Commerce Commission), Lanigan Exhibit 1, being a map of steam roads in Illinois, showing their location, course, and direction, will be furnished by appellants for binding in the record.

9. The following portions of Defendants' Exhibit 4 shall be printed:

(*a*) The inside title page and Roman pp. III, IV, V, and XII,

except the last paragraph at Roman p. XII, of Cherry Exhibit 3 shall be printed.

(*b*) Of Versen Exhibit 30, being the Roster of the Business Men's League of St. Louis, 1915, pp. 1 and 3, shall be printed.

10. Defendants' Supplemental Record on their Cross-Appeal.

It is further stipulated that the Clerk may proceed at once with the printing of the record, the parties reserving the right to designate additional portions of Defendants' Exhibits 3 and 4 on or before March 17, 1917.

JOHN BARTON PAYNE,
W. S. HORTON,
R. B. SCOTT,
Solicitors for Appellants.
EDWARD J. BRUNDAGE,
Attorney General,
JAMES H. WILKERSON,
Assistant Attorney General,
Solicitors for Appellees.

2171 [Endorsed:] File No. 25,785. Supreme Court U. S. October Term No. 955. Illinois Central R. R. Co., Appellant, vs. State Public Utilities Commission of Illinois et al. Stipulation as to Printing Record.

Filed March 20, 1917.

2172 In the Supreme Court of the United States. October Term, A. D. 1916.

ILLINOIS CENTRAL RAILROAD COMPANY et al., Appellants,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Appellees.

Consolidated Cases.

To the Clerk of Said Court:

In printing the record in the above entitled cases, please print in accordance with the stipulation heretofore made herein, the following portions of Defendants' Exhibit 3:—

The last paragraph on page 73, all of page 74, and the first paragraph on page 75 of said Exhibit.

The evidence of K. F. Niemoeller, being pages 321-334, inclusive, of said Exhibit.

The cross-examination, redirect-examination and re-cross-examination of the witness, F. G. Cunningham, as found on pages 340-367 of said Exhibit.

The cross-examination of the witness, J. A. Appel, as found on pages 371-379 of said Exhibit.

The cross-examination of the witness, L. Koenig, as found on pages 384-387 of said Exhibit.

2173 That portion of the evidence of the witness, J. B. Lannigan, as found on pages 837-881, inclusive, of said Exhibit.

The cross-examination and redirect-examination of the witness, J. D. McNamara, as found on pages 901-922 of said Exhibit.

The evidence of the witness, S. G. Hatch, as found on pages 936-944 of said Exhibit.

That portion of the evidence of the witness, C. J. Charlton, commencing with his cross-examination on page 950 to the close of his testimony on page 965.

The cross-examination of the witness, F. M. Westerman, as found on pages 987-992 of said Exhibit.

EDWARD J. BRUNDAGE,
JAMES H. WILKERSON,
Solicitors for Appellees.

[Endorsed:] In the Supreme Court of the United States. October Term, A. D. 1916. Illinois Central Railroad Co. et al., Appellants, vs. State Public Utilities Commission of Illinois et al., Appellees. Appellees' Designation of Portions of Record to be Printed. Office of the Clerk. Received Mar. 14, 1917. Supreme Court U. S.

2174 [Endorsed:] File No. 25,785. Supreme Court U. S., October Term, 1916. Term No. 955. Illinois Central R. R. Co., appellant, vs. State Public Utilities Commission of Illinois, et al. Designation by appellees of parts of record to be printed. Filed March 14, 1917.

2175 In the Supreme Court of the United States, October Term, 1916.

No. 955. (29 Cases Consolidated.)

ILLINOIS CENTRAL RAILROAD COMPANY, Appellant,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Appellees.

Appeal from United States District Court for the Northern District of Illinois, Eastern Division.

Supplemental Stipulation Concerning Printing of the Record.

To the Clerk of Said Court:

Referring to the portions of Defendants' Exhibit 3 which Solicitors for appellees have designated shall be printed in accordance with the last paragraph of the stipulation between Solicitors for appellants and Solicitors for appellees dated March 10, 1917, it is

hereby stipulated that the following additional portions of Defend ants' Exhibit 3 shall be printed:

1. The fourth and fifth lines on page 75 of said exhibit shall b printed and added to the matter designated by appellees betwee pages 73 and 75 of said Exhibit 3. The line to be so added reads "Examiner Gutheim: We will not rule on that latter point now."

2. That part of the cross-examination of witness A. F. Versen ap pearing on page 200 of said Defendants' Exhibit 3, beginning wit the eleventh line on said page, reading: "Mr. Humburg: Some thing was said about cat's paws this morning," and ending with th eighteenth line on the same page, reading: "Mr. Versen: Non whatsoever."

Signed March 16, 1917.

JOHN BARTON PAYNE,
R. B. SCOTT,
W. S. HORTON,
A. P. HUMBURG,
Solicitors for Appellants.
EDWARD J. BRUNDAGE,
J. H. WILKERSON,
Solicitors for Appellees.

[Endorsed:] 955/25785.

2176 [Endorsed:] File No. 25,785. Supreme Court U. S., O tober Term, 1916. Term No. 955. Illinois Central Railroa Co., appellant, vs. State Public Utilities Commission of Illinois, al. Supplemental Stipulation as to printing record. Filed Mar 20, 1917.

2177 In the Supreme Court of the United States, October Ter 1916.

No. 955. (29 Cases Consolidated.)

ILLINOIS CENTRAL RAILROAD COMPANY, Appellant,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS et al., Appelle

Appeal from United States District Court for the Northern Distr of Illinois, Eastern Division.

Second Supplemental Stipulation Concerning Printing of the Reco

To the Clerk of Said Court:

It is further stipulated between Solicitors for appellants and Sol itors for appellees that pages 33, 34, and 37 of Wettling Exhibit

being a part of Defendants' Exhibit 4, shall be printed as a part of the printed record in the above entitled cause.

Signed March 16, 1917.

JOHN BARTON PAYNE,
R. B. SCOTT,
W. S. HORTON,
A. P. HUMBURG,
Solicitors for Appellants.
EDWARD J. BRUNDAGE,
J. H. WILKERSON,
Solicitors for Appellees.

[Endorsed:] 955/25785.

2178 [Endorsed:] File No. 25,785. Supreme Court U. S., October Term, 1916. Term No. 955. Illinois Central R. R. Co., appellant, vs. State Public Utilities Commission of Illinois et al. Second supplemental stipulation as to printing record. Filed March 20, 1917.

Endorsed on Cover.

File No. 25,785. N. Illinois D. C. U. S. Term No. 955. The Illinois Central Railroad Company, appellant, vs. State Public Utilities Commission of Illinois, Edward J. Brundage, Attorney General, et al. Filed February 24, 1917.

File No. 25,841. Term No. 1011. State Public Utilities Commission of Illinois, Edward J. Brundage, Attorney General, et al., appellants, vs. The United States, Interstate Commerce Commission, Illinois Central Railroad Company, et al. Filed March 20, 1917.

File No. 25,842. Term No. 1012. The United States, appellant, vs. Illinois Central Railroad Company, State Public Utilities Commission, et al. Filed March 20th, 1917.

File Nos. 25,785, 25,841, and 25,842.

Office Supreme Court, U. S.
FILED
MAR 26 1917
JAMES D. MAHER
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1916.

No. 955 416

ILLINOIS CENTRAL RAILROAD COMPANY,
Appellant,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, et al.,
Appellees.

(29 Cases Consolidated)

APPEAL FROM UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

MOTION BY THE APPELLANTS TO ADVANCE.

JOHN BARTON PAYNE,
R. B. SCOTT,
A. P. HUMBURG,
Solicitors for Appellants.

WASHINGTON, D. C., March 26, 1917.

GUNTHORP-WARREN PRINTING COMPANY, CHICAGO.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1916.

No. 955

ILLINOIS CENTRAL RAILROAD COMPANY,
Appellant,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, et al.,
Appellees.

(29 Cases Consolidated)

APPEAL FROM UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

MOTION BY THE APPELLANTS TO ADVANCE.

Come now the appellants and move the court to advance the above entitled cause for hearing on a day convenient to the court.

In support thereof, appellants represent to the court as follows:

In a proceeding before the Interstate Commerce Commission known as Docket No. 8083, based upon a complaint by the Business Men's League of St. Louis, in which said proceeding the Keokuk Industrial Association, the State Public Utilities Commission of Illinois, the State of Illinois, and the People of the State of

Illinois by their Attorney General, intervened, the Commission, following its report of July 12, 1916 (41 I. C. C., 13, Rec., 48), and its supplemental report of October 17, 1916 (41 I. C. C., 503, Rec., 70), issued on October 17, 1916, its order (Rec., 72), in which said reports and order the Commission found, among other things, that 2.4c per mile, bridge tolls excepted, was a reasonable basis for passenger fares between St. Louis, Missouri, and Keokuk, Iowa, on the one hand, and points in Illinois upon the other; and that the existing bridge tolls at St. Louis and Keokuk were reasonable; and directed the establishment of fares not in excess of said basis, on or before January 15, 1917, upon notice as prescribed in Section 6 of the Act to Regulate Commerce. It was further found *inter alia* that the maintenance by the appellants of the statutory two-cent fare between East St. Louis, Illinois, and Chicago, Illinois, and between points opposite Keokuk and Chicago, and generally within the State of Illinois, subjected St. Louis and Keokuk and interstate passenger traffic between St. Louis and Keokuk and points in Illinois, to undue, and unreasonable, prejudice and disadvantage, in violation of Section 3 of the Act to Regulate Commerce, to the extent that the interstate fares to and from St. Louis and Keokuk, and points in Illinois, exceeded the intrastate fares within Illinois, and appellants were directed to remove the said discrimination on or before January 15, 1917.

Appellants, pursuant to the requirements of law, and of the said order of October 17, 1916, in order to remove said discrimination, published and filed tariffs effective January 1, 1917, establishing both interstate and intrastate passenger fares upon a basis of 2.4 cents per mile.

Appellants also instituted these proceedings on November 20, 1916, to enjoin the appellees from beginning

any civil suit, or suits, or criminal proceedings, or prosecutions, to prevent these appellants from putting into effect the said fares hereinbefore referred to, or from in any way obeying the said order of October 17, 1916, of the Interstate Commerce Commission, and from beginning or encouraging any civil suits, or criminal proceedings or prosecutions, to enforce or collect any penalties denounced in said statutes for failure to comply with the statutes of the State of Illinois, for or on account of anything done, or to be done, by appellants in the publishing, filing and posting of the said tariffs, and the establishment, maintenance and collection of the fares therein provided and as required by law and the order of said Interstate Commerce Commission. Pending this proceeding, but prior to the entering of the decree therein, the said tariffs became effective, and the fares authorized thereby became the only lawful fares that could be collected.

On January 13, 1917, after the fares authorized by the order of the Commission had become effective, the court below entered a final decree dismissing the bills of complaint herein for want of equity, and the court in its opinion held that the said order of the Interstate Commerce Commission was completely and obviously beyond the power of the Commission.

Upon petition of appellants, an appeal was allowed by the United States District Court on the third day of February, 1917.

An application to the District Court (Rec., 317), for an injunction as prayed in the bills, pending the appeal, was made but was denied.

An application to Mr. Justice Clarke for an injunction as prayed in the bills, pending the appeal was made and denied.

Appellants respectfully submit that this cause should be advanced for an early hearing for the following reasons, among others:

1. Because the effect of said decree is to require the appellant carriers to disregard the provisions of their published tariffs as authorized and required by the Interstate Commerce Commission to remove said discrimination, since they cannot enforce said tariffs as to intrastate traffic, within the State of Illinois, without subjecting themselves to a multiplicity of suits, and to vexatious and excessive penalties denounced by the Illinois statutes, which would deprive them of their property without due process of law, and deny them the equal protection of the laws, as set forth in detail in the bills of complaint herein.

2. Because the effect of the decree of the District Court is to destroy the rate structure established under the Commission's order and to continue the unlawful discrimination against interstate passenger traffic, and against St. Louis and Keokuk prohibited by the Interstate Commerce Commission.

3. Because the failure to speedily grant the injunction requested will continue the chaotic condition created by the fact that appellants are subject to the order of the Interstate Commerce Commission to remove the discrimination found, and at the same time may be subject to prosecution under the Illinois law if they enforce the tariffs which were filed and published in pursuance of said order of the Interstate Commerce Commission.

4. Because appellants' inability to comply with the said order of the Interstate Commerce Commission by reason of the failure to grant the injunction prayed for will subject the appellants to enormous penalties under the Interstate Commerce Act.

5. Because the case involves the public interest.

Notice of intention of appellants to make this motion has been duly served upon the appellees, the Attorney General of the United States and the Chief Counsel of the Interstate Commerce Commission.

JOHN BARTON PAYNE,
R. B. SCOTT,
A. P. HUMBURG,
Solicitors for Appellants.

Office Supreme Court, U. S.
FILED
MAR 26 1917
JAMES D. MAHER
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1916.

No. 955 416

ILLINOIS CENTRAL RAILROAD COMPANY,
Appellant,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS ET AL.,
Appellees.

(29 CASES CONSOLIDATED)

APPEAL FROM UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

SUGGESTIONS OF STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS AND OTHER APPELLEES, UPON MOTION TO ADVANCE.

EDWARD J. BRUNDAGE,
Attorney General,
JAMES H. WILKERSON,
Assistant Attorney General,
Solicitors for Appellees.

BUNTHORP-WARREN PRINTING COMPANY, CHICAGO.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1916.

No. 955.

ILLINOIS CENTRAL RAILROAD COMPANY,
Appellant,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, ET AL.,
Appellees.

(29 CASES CONSOLIDATED)

APPEAL FROM UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.

SUGGESTIONS OF STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS AND OTHER APPELLEES, UPON MOTION TO ADVANCE.

Said appellees do not concur in the first four reasons assigned in the motion of appellants to advance. Their views upon those points have been set forth in the answer filed by them to the application for an injunction in this court pending the appeal. Additional copies of said answer are filed for the convenience of the court.

They agree that the case involves the public interest and are prepared to defend their position in this court whenever the court, having in mind the relation of this case to the other cases on the docket, deems it appropriate that the case should be heard.

Their only suggestion is that sufficient time be given for the preparation of briefs. The record has not yet been printed, and it does not seem possible that the case can be prepared for hearing before the next term of the court.

EDWARD J. BRUNDAGE,
Attorney General,

JAMES H. WILKERSON,
Assistant Attorney General,
Solicitors for Appellees.

Office Supreme Court, U. S.
FILED
SEP 12 1917
JAMES D. MAHER
CLERK

IN THE

Supreme Court of the United States.

OCTOBER TERM, A. D. 1917.

ILLINOIS CENTRAL RAILROAD COMPANY, *Appellant,* vs. STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, EDWARD J. BRUNDAGE, ATTORNEY GENERAL, ET AL., *Appellees.*	No. 416.
STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, ET AL., *Appellants,* vs. UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ILLINOIS CENTRAL RAILROAD COMPANY, ET AL., *Appellees.*	No. 448.

Appeals from the District Court of the United States for the Northern District of Illinois.

ILLINOIS PASSENGER FARE CASES.

BRIEF AND ARGUMENT FOR THE CARRIERS.

SILAS H. STRAWN,
ROBERT BRUCE SCOTT,
ANDREW P. HUMBURG,
Solicitors for Carriers.

M. L. BELL,
CLARENCE BROWN,
N. S. BROWN,
ALFRED H. BRIGHT,
ROBERT J. CARY,
HOMER T. DICK,
W. F. DICKINSON,
O. W. DYNES,
HARVEY J. ELAM,
J. M. ELLIOTT,
L. J. HACKNEY,
J. M. HAMILL,
BURTON HANSON,
HENRY G. HERBEL,
SHIRLEY T. HIGH,
ALEX. P. HUMPHREY,
W. S. HORTON,
EDWARD M. HYZER,
WALTER H. JACOBS,
EDWARD C. KRAMER,
BLEWETT LEE,
GARDINER LATHROP,
F. M. MINER,
J. L. MINNIS,
JOHN L. McINERNEY,
EDWARD D. MOHR,
W. A. NORTHCUTT,
T. J. NORTON,
JOHN BARTON PAYNE,
SIDNEY R. PRINCE,
R. W. RICHARDS,
E. M. SMART,
O. M. SPENCER,
CHAS. P. STEWART,
H. L. STONE,
P. B. WARREN,
EDWARD J. WHITE,
R. H. WIDDICOMBE,
D. P. WILLIAMS,
C. C. WRIGHT and
F. G. WRIGHT,
Of Counsel for Carriers.

September 8, 1917.

GUNTHORP-WARREN PRINTING COMPANY, CHICAGO.

SYNOPSIS AND INDEX.

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STATEMENT OF THE CASE..... 1-17

The Business Men's League of St. Louis filed a complaint with the Interstate Commerce Commission against the Illinois carriers alleging that the maintenance of intrastate passenger fares in Illinois lower than the interstate fare between St. Louis and stations in Illinois worked a discrimination against passenger traffic between St. Louis and points in Illinois, and constituted an unjust discrimination in violation of the provisions of Sections 1, 2, 3 and 4 of the Act to Regulate Commerce. The Keokuk Industrial Association of Keokuk, Iowa, intervened and asked for the same relief with reference to Keokuk. The Chicago Association of Commerce, State Public Utilities Commission of Illinois, the Attorney General of Illinois, and the East Side Manufacturers Association of East St. Louis, also intervened.

The Commission made an order finding that 2.4 cents per mile was a reasonable basis for interstate fares and that the maintenance of a lower basis within the State of Illinois constituted unjust discrimination in violation of the Act to Regulate Commerce, and ordered the carriers to remove such discrimination on or before January 15, 1917.

The Illinois fares were fixed at 2 cents per mile for adult passengers and 1 cent per mile for children under 12 years of age, by an act of the legislature of Illinois in force July 1, 1907.

The Attorney General of Illinois and the State's Attorneys of the various counties in Illinois threatened to prosecute the carriers if passenger fares in excess of the Illinois statutory rate were charged in Illinois, and the State Public Utilities Commission threatened to suspend any tariffs carrying fares in excess of the statutory rate. The carriers filed a bill in the District Court of the United States for the Northern District of Illinois, praying for an injunction restraining the Illinois authorities from prosecuting them for advancing passenger fares in Illinois over the statutory Illinois rate and to restrain the Public Utilities Commission of Illinois from suspending such tariffs, alleging that such tariffs were required and justified by the order of the Commission in the Business Men's League case.

The District Court dismissed the carriers' bill for want of equity, holding that the Commission was without power to make the order of October 17, 1916. From the decree so dismissing the bill the carriers appeal.

ARGUMENT 18-42

1. The decision of the Interstate Commerce Commission that an interstate fare of 2.4 cents per mile is reasonable and that the maintenance of a lower state fare is unduly discriminatory is final and not subject to attack 18-20
2. Regulation by the state must give way when in conflict with regulation by the Federal Government 18-22
3. No order of the Interstate Commerce Commission can be annulled or set aside except in a direct proceeding brought in the judicial district wherein is the residence of the party upon whose petition the order was made 19-25
4. The carriers in obeying the order of the Commission are entitled to an injunction protecting them from prosecution by the state authorities for alleged violation of the state law 19-29
5. The order of the Interstate Commerce Commission, dated October 17, 1916, is state wide in its scope 19-30

CONCLUSION 18-42

Under the principle of law announced in the *Shreveport Case*, 234 U. S., 342, and the *South Dakota Express Case*, decided by this court on June 11, 1917, the carriers have the right to advance intrastate fares to the level of the interstate fares and are required to put both the intrastate and interstate fares on a parity to remove the discrimination found to exist by the Commission. The order of the Commission required the adjustment of all passenger fares throughout Illinois to effectuate the purpose which the Commission directed to be accomplished. The decree of the District Court dismissing the bill for want of equity should be reversed and the prayer of the carriers for an injunction should be allowed.

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IN THE

Supreme Court of the United States.

OCTOBER TERM, A. D. 1917.

LLINOIS CENTRAL RAILROAD COMPANY, *Appellant,* *vs.* TATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, EDWARD J. BRUNDAGE, ATTORNEY GENERAL, ET AL., *Appellees.*	No. 416. Appeals from the District Court of the United States for the Northern District of Illinois.
TATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, ET AL., *Appellants,* *vs.* NITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ILLINOIS CENTRAL RAILROAD COMPANY, ET AL., *Appellees.*	No. 448.

BRIEF AND ARGUMENT FOR THE CARRIERS.

STATEMENT OF THE CASE.

These cases involve the scope and effect of an order of the Interstate Commerce Commission, entered October 17, 1916, directing the Illinois carriers, parties hereto, to remove certain discriminations in passenger fares found by the Commission to exist against St. Louis, Missouri, and Keokuk, Iowa, and against interstate commerce, and the undue preferences and advantages found by the Commission to exist in favor of Illinois points and in favor of intrastate commerce. The order was

made on the complaint of the Business Men's League of St. Louis, a resident of the Eastern Judicial District of Missouri.

From a decree of the District Court of the Northern District of Illinois, dismissing their bills brought to enjoin the Illinois State authorities from prosecuting them for violating the state statute prescribing a maximum passenger fare in Illinois while obeying the order of the Interstate Commerce Commission, the carriers have appealed to this court.

Prior to July 1, 1907, the Illinois carriers charged for the transportation of passengers between points in Illinois fares upon the basis of 3 cents per mile for adults and 1½ cents per mile for children under twelve years of age. The same basis was applied between St. Louis, Missouri, and points in Illinois. On May 27, 1907, the Governor of Illinois approved an act of the Legislature of that state known as the Maximum Rate of Charges Law, which is as follows:

> "*Passenger Rates.* Section 1. That it shall hereafter be unlawful for any corporation or company engaged in the carriage of passengers upon any railroad between points in this state, to charge in excess of two (2) cents per mile for the carriage of adult passengers where any passenger has purchased a ticket entitling him to carriage, or in excess of one (1) cent per mile for the carriage of a passenger under twelve (12) years of age where such passenger has purchased a ticket entitling him to carriage; *provided*, that the charge in no case shall be less than five cents (5c), and in determining the charge, fractions of less than one-half (½) mile shall be disregarded and all other fractions counted as one (1) mile. If any adult passenger shall have failed to purchase a ticket entitling him to carriage, a rate of three (3) cents per mile may be charged and collected; * * *
>
> *Penalty.* Section 2. For any violation of the pro-

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visions of this Act by any such corporation or company, its agent or employe, such corporation or company shall forfeit and pay to the State of Illinois, a penalty of not less than twenty-five (25), nor more than one hundred (100) dollars for every such violation, to be recovered by suit brought in the name of the State of Illinois by the Attorney General of the State in any court of competent jurisdiction in any county into or through which said corporation or company runs or passes, or by the state's attorney of any county through which said corporation or company runs or passes. Where such penalty is recovered in a suit brought by a state's attorney as provided by this Act, there shall be recovered in addition thereto the sum of ten (10) dollars as compensation for said prosecuting attorney."

(Section 233, Chapter 114, Revised Statutes of Illinois, 1915-16.)

In obedience to the provisions of this act the carriers put in force on and after July 1, 1907, and collected passenger fares provided therein. This statute brought about reduction from 3 cents to 2 cents per mile in the interstate fares between points in Illinois on the one hand and St. Louis on the other. (Rec., 36, 523, 529.)

From July 1, 1907, to December 1, 1914, the passenger fares between St. Louis, Missouri, and points in Illinois were generally upon the basis of 2 cents per mile, plus bridge tolls, which was the same basis applied during such period between all points in Illinois, as above stated.

On July 29, 1914, the Interstate Commerce Commission made a report and order in the case, known as the *Five Per Cent. Case,* 31 I. C. C., 351, and at page 407 of said report the Commission said:

"The need of additional revenues is greatest in Central Freight Association territory, and existing statutes in Ohio, Indiana, Illinois and Michigan may be obstacles to the raising of passenger fares in those states, but we are confident that if these statu-

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tory fares are clearly shown to be unduly burdensome to the carriers the people of those great states will cheerfully acquiesce, as the people of New England have done, in reasonable increases, and that necessary legislative authority will be promptly given. The traveling public is giving expression to its demands for better service, better accommodations, and for the adoption by carriers of all the devices that make for safety. A public that demands such a service cannot reasonably object to the payment of a reasonable compensation therefor." (Rec., 39.)

Following this case, and on December 1, 1914, the Illinois carriers advanced their passenger fares between St. Louis, Missouri, and points in Illinois, to the basis of 2½ cents per mile for the distance within Illinois, plus bridge tolls, but without making any corresponding advances in passenger fares between points wholly within the State of Illinois.

On December 7, 1915, the Interstate Commerce Commission in a certain case known as the *Western Passenger Fares case*, 37 I. C. C., 1, found that a basis for interstate fares on the lines of certain Illinois carriers of 2.4 cents per mile was justified, and that such basis of 2.4 cents per mile was reasonable for interstate fares in the states of Illinois, Wisconsin, Michigan (Upper Peninsula), Minnesota, Iowa, Nebraska, Missouri (North of the Missouri River), and in Kansas on and north of the main line of the Union Pacific Railroad. (Rec., 45.)

On June 14, 1915, the Business Men's League of St. Louis, a corporation of the State of Missouri, filed its complaint with the Interstate Commerce Commission against certain Illinois railroads, which proceeding is known as Docket Number 8083 of the Interstate Commerce Commission, entitled, "*The Business Men's League of St. Louis* v. *The Atchison, Topeka & Santa Fe Railway Company, et al.,*" 41 I. C. C., 13, in which com-

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plaint it was charged, among other things, that the passenger fares between St. Louis, Missouri, and points in Illinois were unjust and unreasonable, unduly discriminatory, prejudicial and unlawful, and in violation of Sections 1, 2, 3 and 4 of the Act to Regulate Commerce. It was charged in the complaint that each and all of the passenger fares between St. Louis and each point in Illinois on each line of each defendant were unjustly discriminatory and that the failure of the defendant railroads to increase the intrastate passenger fares in Illinois while increasing the interstate fares between St. Louis and stations in Illinois had resulted in a disparity of the charges between Illinois points and St. Louis, Missouri, on the one hand and East St. Louis, Chicago and other Illinois points on the other, which worked a discrimination against passenger traffic between St. Louis and points in Illinois and which constituted an unjust discrimination and undue preference and advantage, in violation of the provisions of the Act to Regulate Commerce. (Rec., 299.)

The defendants in said cause included practically all the railroads engaged in the carriage of passengers within the State of Illinois. The Chicago Association of Commerce intervened in the proceeding, averring that the granting of the relief asked for would create unjust discrimination against Chicago if, as a consequence, Illinois intrastate charges should be increased. (Rec., 336.) The State Public Utilities Commission of Illinois also intervened, averring that the Illinois intrastate fares were not discriminatory when compared with fares between St. Louis and Illinois points; that the Illinois intrastate fares were fixed at 2 cents per mile by the Illinois Legislature, and that the Interstate Commerce Commission had no authority to fix transportation charges for carriage wholly in Illinois. (Rec., 336-338.) The East

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Side Manufacturers' Association, constituted of interests in East St. Louis, Madison and Granite City, Illinois, also intervened and protested against any action which would result in an increase of the charge for intrastate passenger transportation in Illinois, and contended that the Interstate Commerce Commission had no power to order a readjustment of the charges for carriage wholly within Illinois. (Rec., 386-387.)

The Keokuk Industrial Association of Keokuk, Iowa, also intervened and averred that Keokuk was in competition with St. Louis, that any change in rates, rules and practices made with respect to St. Louis upon the traffic in question should apply also to Keokuk, and that otherwise the result would be unjust discrimination. (Rec., 385.)

The State of Illinois and the People of the State of Illinois intervened by the then Attorney General of said state, and averred that the power to prescribe and regulate fares of passengers in Illinois was vested in the Legislature of Illinois; that the Legislature had fixed a maximum of 2 cents per mile for the carriage of passengers in Illinois; that this act imposed no burden on interstate commerce, and that an allegation of unjust discrimination against St. Louis could not be predicated upon a comparison of charges which did not take into consideration the expensive terminals at St. Louis and the bridges crossing the Mississippi River. (Rec., 389.)

The complaint was duly heard by the Interstate Commerce Commission and the various complainants and defendants and interveners, including the State Public Utilities Commission of Illinois, its Attorney General and Assistant Attorneys General, appeared at the hearing, offered evidence, filed briefs, and participated in the oral arguments.

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On July 12, 1916, the Commission filed its report and order, finding that the passenger fares for travel between St. Louis, Missouri and Keokuk, Io on the one hand, and points in Illinois on the other were just and reasonable maximum fares where not in excess of 2.4 cents per mile, tolls over the Mississippi River bridge excepted; that the contemporaneous maintenance of fares between points in Illinois, on the one hand, lower than those maintained between St. Louis and Keokuk and points in Illinois on the other, gave undue and unreasonable preferences and advantages to intrastate passenger traffic in the State of Illinois and to localities within said state, and subjected interstate passenger traffic between St. Louis and Keokuk on the one hand, and Illinois points on the other, to undue and unreasonable prejudices and disadvantages and imposed an unreasonable and unlawful burden on interstate passenger traffic; that the tolls collected for crossing bridges over the Mississippi River at St. Louis and Keokuk were just and reasonable; that the maintenance of lower passenger fares from Chicago to points in Illinois than from St. Louis and Keokuk to points in Illinois resulted in undue preference and advantage in favor of Chicago to the extent that the fares between St. Louis and Keokuk and such Illinois points exceeded the fares between Chicago and Illinois points where the distances were approximately equal, by more than a reasonable bridge toll. The order of the Commission required the establishment on or before October 16, 1916, of passenger fares between St. Louis and Keokuk and all points within the State of Illinois upon a basis not higher than 2.4 cents per mile, bridge tolls excepted, and required that the discrimination against St. Louis and Keokuk and against interstate passenger traffic be removed on or before October 16, 1916. (Rec., 31.)

On October 17, 1916, the Commission made a supple-

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mental report and findings and an order vacating its order of July 12, 1916, and substituting therefor its order of October 17, 1916 (Rec., 53-59), wherein it found that the interstate fares between St. Louis and Keokuk on the one hand, and interior Illinois points on the other, made on a per mile basis of 2.4 cents would be subject to defeat if the state fares to and from interior Illinois points intermediate to the passenger's ultimate destination be made upon a basis lower than the fares applying between St. Louis or Keokuk and such Illinois destinations, and that any contemporaneous adjustment of fares between St. Louis and Keokuk and Illinois points, and *generally within the State of Illinois*, which would permit the defeat of the St. Louis, Keokuk, East St. Louis or other east side city fares by using interstate tickets purchased at interstate fares between St. Louis or Keokuk and any east side point in Illinois and thus continuing the journey to or from any Illinois points on a ticket purchased at the lower state fare, which would thereby permit the continuance of the undue prejudices found to be suffered by St. Louis and Keokuk, and which would continue to burden interstate passenger traffic, would not comply with the amended order of October 17, 1916. The Commission directed the defendant carriers to cease and desist on or before January 15, 1917, from publishing, demanding or collecting passenger fares between St. Louis and Keokuk on the one hand and points in Illinois on the other, upon a basis higher than 2.4 cents per mile, bridge tolls excepted, or higher than the fares contemporaneously exacted for the transportation of passengers between East St. Louis, Illinois, or Illinois points directly opposite Keokuk, and the same Illinois points, by more than a reasonable bridge toll, or fares constructed upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained between Illinois points in-

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termediate between St. Louis and Keokuk on the one hand and points in Illinois on the other, as such fares were found in said report to be unlawfully discriminatory, and to cease and desist on or before January 15, 1917, from publishing, demanding or collecting fares for the transportation of passengers between St. Louis and Keokuk on the one hand and points in Illinois on the other, the basis of which per mile, bridge tolls excepted, is higher than the basis per mile for fares contemporaneously maintained between Chicago and the same Illinois points, as such fares were found in said report to be unlawfully discriminatory. (Rec., 53.)

The carriers were directed on or before January 15, 1917, upon notice to the Commission and to the public, by not less than thirty days filing and posting, in the manner prescribed in Section 6 of the Act to Regulate Commerce, to establish and put in force and thereafter to maintain and apply passenger fares between St. Louis and Keokuk on the one hand, and points in Illinois on the other, the basis of which per mile, bridge tolls excepted, should not exceed 2.4 cents per mile, which basis was found reasonable, nor be in excess per mile of the fares between points in Illinois directly opposite Keokuk and St. Louis and the same points, by more than a reasonable bridge toll, and likewise to establish, maintain and apply passenger fares between Keokuk and St. Louis on the one hand and points in Illinois on the other, the basis of which per mile, bridge tolls excepted, is not higher than the basis per mile for the fares contemporaneously maintained between Chicago and the same Illinois points, and to cease and desist on or before January 15, 1917, and thereafter to abstain from the undue preferences and the undue and unreasonable prejudices and disadvantages found in said reports of July 12, 1916, and October 17, 1916, to result from the contemporaneous maintenance

between Illinois points of passenger fares which fares in combination with other fares required or permitted by the order of October 17, 1916, would produce the discrimination against interstate commerce and the undue preferences in favor of intrastate commerce condemned in said reports of the Commission. (Rec., 53.)

In obedience to the order of the Commission the Illinois carriers on or about November 29, 1916, published and filed with the Commission tariffs naming interstate fares for the transportation of passengers between St. Louis, Missouri, and Keokuk, Iowa, on the one hand, and points in Illinois on the lines of their railroads on the other, constructed and established on the basis of 2.4 cents per mile, bridge tolls excepted, which fares and bridge tolls were not in excess of those found reasonable by the Commission in the reports of July 12, 1916, and October 17, 1916, and the order of October 17, 1916. Such interstate fares became effective on January 1, 1917. In obedience to the order of the Commission the carriers also published and filed with the Interstate Commerce Commission and with the State Public Utilities Commission of Illinois tariffs naming fares constructed and established upon the basis of 2.4 cents per mile for the transportation of intrastate and interstate passengers in the State of Illinois, as follows:

(a) Between East St. Louis, Illinois, and points in Illinois,

(b) Between points in Illinois intermediate between St. Louis, Missouri, and points in Illinois,

(c) Between points directly opposite Keokuk, Iowa, and points in Illinois,

(d) Between points in Illinois intermediate between Keokuk, Iowa, and points in Illinois.

(e) Between Chicago, Illinois, and points in Illinois,

(f) Between points in Illinois intermediate between Chicago, Illinois and points in Illinois, and

(g) Generally between points in Illinois. (Rec., 165-167.)

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The interstate fares became effective on January 1, 1917, but the carriers feared they would be unable to charge or collect the intrastate fares for the reason that the Attorney General of Illinois and the State's Attorneys of the various counties in Illinois threatened to prosecute the carriers for alleged violation of the act of the Legislature of Illinois above referred to, known as the Maximum Rate of Charges Law.

Therefore, on November 20, 1916, the twenty-nine carriers filed their several bills in the District Court of the United States for the Northern District of Illinois, Eastern Division, against the State Public Utilities Commission of Illinois, the several commissioners constituting said Commission, the Attorney General of Illinois, and the State's Attorneys for the several counties in Illinois through which their lines of railroad run, to enjoin the Commission and commissioners from suspending the tariffs and to enjoin them and the Attorney General and the State's Attorneys from bringing any civil suit or suits, or criminal proceedings or prosecutions to prevent the plaintiffs in said suits from obeying the order of the Commission or from beginning or encouraging any suit or suits, criminal proceedings or prosecutions to enforce any penalties for failure to comply with the statutes of the State of Illinois for or on account of anything done or to be done by the carriers in the publishing, filing and posting of the tariffs above referred to, and the establishment, maintenance and collection of the fares therein provided. The bills set up in apt language the facts relating the proceeding before the Interstate Commerce Commission in the Business Men's League case; that the plaintiffs were preparing tariffs in accordance with the fares authorized by the Interstate Commerce Commission in the reports and orders above referred to, and that the Illinois authorities had threatened to suspend the tariffs

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and prosecute the plaintiffs if the fares prescribed by the Illinois statute for the carriage of intrastate passengers were exceeded. The bills prayed, among other things, that the Illinois statute be declared null and void because in conflict with the report and orders of the Interstate Commerce Commission, and in violation of the constitutional rights of the plaintiffs. (Rec., 8-30.)

The case came on to be heard on the motion of the plaintiffs for an interlocutory injunction on December 11, 1916, before Honorable Evan A. Evans, Circuit Judge; Honorable Kenesaw M. Landis and Honorable George A. Carpenter, District Judges, a court convoked under Section 266 of the Judicial Code. (Rec., 103.) The defendants to the bills moved that the United States and the Interstate Commerce Commission be made parties to the proceeding, and, over the objection of the plaintiff, an order was entered by the court to that effect. (Rec., 60.) The hearing on the motion for an interlocutory injunction was continued to January 3, 1917. (Rec., 60.)

The terms of office of some of the State's Attorneys, defendants to the bill, having expired, supplemental bills were filed on December 15, 1916, making their successors parties to the suit, and averring that the tariffs referred to in the original bills as being in course of preparation had been filed with the Interstate Commerce Commission and the State Public Utilities Commission of Illinois. (Rec., 65.) The bills and supplemental bills were answered by the defendants admitting their purpose and intention to prosecute the carriers for any violation of the State Maximum Rate of Charges Law (Rec., 81) and averring said law was in full force and effect, and alleging the order of the Interstate Commerce Commission made on October 17, 1916, was void because it was beyond the power of the Commission to make; because there was no substantial evidence in the

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proceedings before the Commission to support such order, and that the basis upon which the conclusions and findings of the Commission were reached was fundamentally wrong and contrary to law. The answer prayed that it be taken as a cross bill or counterclaim against the plaintiffs and the United States, and the Interstate Commerce Commission; that the order of the Commission entered on October 17, 1916, be set aside and annulled, and that the plaintiffs, the United States and the Interstate Commerce Commission, be perpetually enjoined and restrained from complying with, enforcing, or, attempting to enforce the provisions of said order. (Rec., 76.)

The plaintiffs filed replications to the answer, setting up that the District Court of the United States for the Northern District of Illinois, was without jurisdiction to suspend, set aside, annul or enjoin the order of the Commission of October 17, 1916. (Rec., 89.)

The Interstate Commerce Commission filed a plea and answer to the original and supplemental bills and to so much of the answers as were in the nature of cross bills, setting up that the court was without jurisdiction to set aside, annul or enjoin the order of the Commission of October 17, 1916, and affirming the validity, finality and conclusiveness of said order. (Rec., 95.)

The United States filed a special appearance and answer, alleging that the bills of complaint and the supplemental bills constituted suits to enforce orders of the Commission and that the cross bill of the Illinois authorities was a suit to suspend or set aside an order of the Commission, and that the District Court of the United States for the Northern District of Illinois was without jurisdiction to entertain either the original and supplemental bills or the answers in the nature of cross bills. (Rec., 101.)

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A motion to strike out certain parts of the answers of the Illinois authorities in the nature of cross bills was filed and adopted by all the plaintiffs. (Rec., 98.)

This motion, together with the application for a temporary injunction upon the bills, pleas and answers thereto, came on for hearing before the court constituted of the three judges as above set forth. A majority of the judges (Judges Evans and Carpenter) were of the opinion that the original bills did not constitute suits to enforce an order of the Commission and denied the motion to dismiss for want of jurisdiction. They were further of the opinion that the answers in the nature of cross bills were suits to annul, suspend, or set aside an order of the Commission; that the court had no jurisdiction so to do, and ordered that part of the answers to be stricken out. The motion of the plaintiffs to strike out parts of the answers alleging that the report and order of October 17, 1916, was made without notice to the defendants, and that there was no substantial evidence to sustain the report of the Commission, was sustained. (Rec., 104, 114.)

The application for a temporary injunction, as prayed in the bills and supplemental bills, was denied without prejudice to the right of the plaintiffs to renew the application if the final disposition of the case was not reached on or before January 15, 1917. (Rec., 114.)

The cause then came on for final hearing before the Honorable Kenesaw M. Landis, District Judge.

The term of the Attorney General, who was a party to the original bill, having expired, a second supplemental bill was filed making his successor a party defendant to the suit. (Rec., 128.) He filed a special appearance and motion to dismiss on the ground that the court was without jurisdiction on the original and supplemental bills, for the reason that they constituted a suit to enforce an order of the Commission. (Rec., 125.) This

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motion was denied. (Rec., 120.) He thereupon filed an answer reserving the right to object that the court was without power to hear and determine said causes. (Rec., 138.)

Upon leave of court and over the objection of the plaintiffs, the other Illinois authorities, parties defendant to the suit, were given leave to amend their answer by inserting therein those parts which had been previously stricken out by the three-judge court on motion of the plaintiffs. (Rec., 146.)

The causes then proceeded to final hearing upon evidence offered on behalf of the plaintiffs and of the defendant Illinois authorities. The trial court (Honorable Kenesaw M. Landis) on January 13, 1917, ordered the bills dismissed for want of equity (Rec., 147), holding that the order of the Commission of October 17, 1916, was beyond the power of the Commission. (Rec., 184-190.)

From the order overruling its motion to dismiss the original and supplemental bills of the carriers for want of jurisdiction the United States prayed an appeal (Rec., 217), which has since been dismissed on motion of the Attorney General.

From the order dismissing their cross bill or counterclaim, and from the order dismissing the suit as to the United States and the Interstate Commerce Commission, the Illinois authorities prayed an appeal (Case No. 448).

By agreement the suits of the several carriers were consolidated for appeal and the plaintiffs, appellants herein, have brought this appeal to this court, alleging that the order of the Interstate Commerce Commission is valid, and that the decree of the District Court dismissing the bills for want of equity should be reversed. (Case No. 416.)

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PRINCIPAL ERRORS RELIED UPON.

1. The District Court erred in denying the plaintiffs' prayer for injunction.

2. The District Court erred in hearing and determining the matters set up in the answers of the defendants, because it was without jurisdiction thereof.

3. The District Court erred in allowing the defendants to refile those parts of the answers of the defendants which had been stricken out upon motion of the plaintiffs by the special court convoked under Section 266 of the Judicial Code, because such parts of said answers set up matters which the District Court was without jurisdiction to decide.

4. The District Court erred in holding that the order of the Interstate Commerce Commission of October 17, 1916, was invalid and that the Interstate Commerce Commission was without power to make said order.

5. The District Court erred in admitting the record made before the Interstate Commerce Commission in the case of *Business Men's League of St. Louis* v. *Atchison, Topeka & Santa Fe Railway Company et al.*, No. 8083, over the objections of the plaintiffs for the following reasons:

(a) The validity of said order of the Commission can only be questioned in a direct attack on said order under the Act of October 22, 1913;

(b) The District Court of the United States for the Northern District of Illinois had no jurisdiction to determine whether or not said order of the Commission was supported by the evidence, was without substantial evidence, or was contrary to the evidence or to the law, such jurisdiction being vested solely and exclusively in the United States District Court for the Eastern District of Missouri in a proceeding in which three judges are required to sit under the Act of October 22, 1913;

(c) Because a finding of fact by the Interstate Com-

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merce Commission that discrimination existed is final and not reviewable;

(d) Because such record was offered for the purpose of making a collateral attack upon said order of the Commission;

(e) Because the defendants, who were parties to the case of the Business Men's League, No. 8083, have an adequate remedy at law under Section 16a of the Act to Regulate Commerce, to contest the order of the Commission, and persons not parties to said proceeding before the Interstate Commerce Commission claiming to be aggrieved thereby, have a remedy at law under Section 13 of said Act.

6. The District Court erred in refusing to admit the testimony of plaintiff's witnesses that the intrastate tariffs offered in evidence fixing a fare of 2.4 cents per mile were made for the purpose of conforming to the requirement of the order of the Interstate Commerce Commission of October 17, 1916.

7. The District Court erred in sustaining the objection of the defendants to the following question asked of plaintiff's witness:

> "Q. The interstate fares between St. Louis, Missouri and Keokuk, Iowa, on the one hand and points on the Illinois Central Railroad in Illinois on the other having been put upon the basis of 2.4 cents per mile, was it in your opinion necessary to advance to a like basis the intrastate fares between stations on the Illinois Central Railroad in Illinois in order to comply with the provisions of the Interstate Commerce Commission's order of October 17, 1916?" (Witness Lanigan, Rec., 171.)

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BRIEF OF THE ARGUMENT.

I.

THE DECISION OF THE INTERSTATE COMMERCE COMMISSION THAT AN INTERSTATE FARE OF 2.4 CENTS PER MILE IS REASONABLE AND THAT THE MAINTENANCE OF A LOWER STATE FARE IS UNDULY DISCRIMINATORY IS FINAL AND NOT SUBJECT TO ATTACK.

Robinson v. *B. & O. R. Co.*, 222 U. S., 506-511.

Balt. & Ohio R. Co. v. *Pitcairn Coal Co.*, 215 U. S., 481.

Interstate Commerce Commission v. *Union Pacific R. Co.*, 222 U. S., 541.

United States v. *Louisville & Nashville R. R. Co.*, 235 U. S., 314.

Minnesota Rate Cases, 230 U. S., 352.

Atchison, Topeka & Santa Fe Ry. v. *United States*, 232 U. S., 199.

Interstate Commerce Commission v. *Chicago, Rock Island & Pacific Ry.*, 218 U. S., 88.

II.

REGULATION BY THE STATES MUST GIVE WAY WHEN IN CONFLICT WITH REGULATION BY THE FEDERAL GOVERNMENT.

Houston E. & W. Tex. Ry. Co. v. *U. S.*, 234 U. S., 342 (Shreveport case).

American Express Co. v. *South Dakota*, decision June 11, 1917; 37 Sup. Ct. Rep., 656.

Eastern Tex. R. Co. v. *R. R. Com. of Tex.*, 242 Fed., 300.

St. Louis, Iron Mountain & Southern R. Co. et al. v. *State of Arkansas*, decision by Supreme Court of Arkansas July 14, 1917; 20 Traffic World, 130.

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III.

NO ORDER OF THE INTERSTATE COMMERCE COMMISSION CAN BE ANNULLED OR SET ASIDE EXCEPT IN A DIRECT PROCEEDING BROUGHT IN THE JUDICIAL DISTRICT WHEREIN IS THE RESIDENCE OF THE PARTY UPON WHOSE PETITION THE ORDER WAS MADE.

Urgent Deficiencies Act, approved October 22, 1913, Chap. 32, 38 Stat. L. 219, Fed. Stat. Ann. Sup. 1914, p. 230.

Western Union Tel. Co. v. *Missouri ex rel. Gottlieb*, 190 U. S., 412 (426-427).

Stanley v. *Board of Suspensions*, 121 U. S., 535 (550).

McLeod v. *Receveur*, 71 Fed., 455 (458).

IV.

THE CARRIERS, IN OBEYING THE ORDER OF THE COMMISSION, ARE ENTITLED TO AN INJUNCTION PROTECTING THEM FROM PROSECUTIONS BY THE STATE AUTHORITIES FOR ALLEGED VIOLATIONS OF THE STATE LAW.

Ex parte Young, 209 U. S., 123, 155-156, 159-162.

Missouri v. *C. B. & Q. R. R. Co.*, 241 U. S., 533-538.

Eastern Texas Railroad v. *R. R. Com. of Texas*, 242 Fed., 300.

Greene et al. v. *Louisville & Interurban R. R. Co.*, 37 Sup. Ct. Rep., 673, 677.

V.

THE ORDER OF THE INTERSTATE COMMERCE COMMISSION DATED OCTOBER 17, 1916, IS STATE WIDE IN ITS SCOPE AND EFFECT.

ARGUMENT.

I.

THE FINDING BY THE COMMISSION THAT 2.4 CENTS PER MILE WAS A REASONABLE INTERSTATE FARE AND THAT A DISCRIMINATION EXISTED BECAUSE OF THE MAINTENANCE OF A LOWER STATE FARE, IS FINAL AND NOT SUBJECT TO REVIEW IN THIS PROCEEDING.

The Illinois authorities in their answers filed to the original and first supplemental bills attack the order of the Commission on the grounds that the Commission was without authority to make the order, and that the entry of the order was not justified by the evidence submitted to the Commission. The portions of the answers which so attacked the order were stricken out on motion of the carriers by a majority of the three-judge court, who sat on the hearing for the preliminary injunction. (Rec., 107.) Afterwards, on motion of the Illinois authorities, the District Court (Judge Landis), who heard the case on final hearing, permitted the Illinois authorities to amend their answers by refiling portions thereof which had been previously stricken out. (Rec., 140.)

The District Court held that the order of the Commission was void because the Commission was without power to make it, and dismissed the carriers' bills for want of equity for that reason (Rec., 190), holding in effect that the finding of discrimination against St. Louis and Keokuk did not warrant the Commission to direct the adjustment of all passenger fares in Illinois so that such fares would be on a parity with the interstate fares.

It is the position of the carriers that the findings by the Commission that 2.4 cents per mile, plus bridge tolls, was a reasonable basis for interstate fares between St.

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Louis and Keokuk and points in Illinois, and that the maintenance of a lower basis for state fares gave undue and unreasonable preference and advantage to intrastate passenger traffic in the State of Illinois, and created an unlawful discrimination against St. Louis and Keokuk and undue preference and advantage to Chicago and other Illinois points, and that this preference and advantage to intrastate passenger traffic in Illinois and to the Illinois points, thereby preferred and advantaged, created and imposed an unreasonable and unlawful burden on interstate passenger traffic, was final, was the determination of questions of fact upon which the conclusion of the Commission was final and not subject to review in a suit commenced in the Northern District of Illinois to enjoin the defendants from prosecuting the carriers for obeying the Commission's order. Therefore, the District Court erred in permitting the refiling of those portions of the defendants' answers which sought to attack the validity of the findings of the Commission in the Business Men's League case and in holding the order of the Commission void.

This court has held so often that upon questions such as were involved in the Business Men's League case, the decision of the Commission where no error of law has been committed is not subject to review in the courts, that it is not necessary to submit argument to sustain that position. A brief reference to a few of the cases will be sufficient.

In *Robinson* v. *B. & O. R. Co.*, 222 U. S., 506, Mr. Justice Vandeventer said (p. 511):

> "It is true, as was urged in argument, that in that case (*Texas & P. R. Co.* v. *Abilene Cotton Oil Co.*, 204 U. S., 426) the complaint against the established rate was that it was unreasonable, while here the complaint is that the rate was unjustly discriminatory. But the distinction is not material. The power of the Commission over the two complaints is the same, one is as likely to become the subject of diverging opinions and conflicting decisions as is the

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other, and if a court, acting originally upon either, were to sustain it and award reparation, the confusing anomaly would be presented of a rate being adjudged to be violative of the prescribed standards and yet continuing to be the legal rate, obligatory upon both carrier and shipper."

In *Atchison, T. & S. F. Railway Co.* v. *United States*, 232 U. S., 199, Mr. Justice Lamar said:

"All these (rate making matters) are matters committed to the decision of the administrative body, which, in each instance, is required to fix reasonable rates and establish reasonable practices. The courts have not been vested with any such power. They cannot make rates. They cannot interfere with rates fixed or practices established by the Commission unless it is made plainly to appear that those ordered are void."

In *Interstate Commerce Commission* v. *Union Pacific R. Co.*, 222 U. S., 541, Mr. Justice Lamar said:

"It (the court) will not consider the expediency or wisdom of the order, or whether, on like testimony, it would have made a similar ruling. 'The findings of the Commission are made by law *prima facie* true, and this court has ascribed to them the strength due to the judgments of a tribunal appointed by law and informed by experience.' *Illinois Central Railroad Company* v. *I. C. C.*, 206 U. S., 441."

In the *Minnesota Rate Case*, 230 United States, 352, Mr. Justice Hughes said (419):

"* * * the question whether the carrier, in such a case, was giving an undue or unreasonable preference or advantage to one locality as against another, or subjecting any locality to an undue or unreasonable prejudice or disadvantage, would be primarily for the investigation and determination of the Interstate Commerce Commission and not for the courts."

In *United States* v. *L. & N. Rail. Co.*, 235 U. S., 314, the court, speaking through Mr. Chief Justice White, said:

"In view of the doctrine announced in *I. C. C.* v.

I. C. R. R. Co., 215 U. S., 452, *I. C. C.* v. *D. L. & W. R. R. Co.*, 220 U. S., 235, *I. C. C.* v. *L. & N.*, 227 U. S., 88, it plainly results that the court below, in substituting its judgment as to the existence of preference for that of the Commission on the ground that where there was no dispute as to the facts it had a right to do so, obviously exerted an authority not conferred upon it by the statute.

It is not disputable that from the beginning the very purpose for which the Commission was created was to bring into existence a body which from its peculiar character would be most fitted to primarily decide whether from facts, disputed or undisputed, in a given case preference or discrimination existed."

There is, therefore, in this case, as a starting point, an order of the Commission finding a reasonable basis for interstate fares and that the maintenance of a lower basis for state fares created an unlawful discrimination which was required to be removed by the adjustment of passenger fares generally throughout the State of Illinois. This finding the District Court was without power to review, annul or set aside because of any doubt which it may have had as to its wisdom, propriety or expediency.

II.

THAT REGULATION BY THE STATES MUST GIVE WAY WHEN IN CONFLICT WITH REGULATION BY THE FEDERAL GOVERNMENT, IS NO LONGER OPEN TO QUESTION.

It is not our purpose to submit argument to support the proposition that where a state rate or fare constitutes a discrimination against interstate commerce, and this fact is determined by the Interstate Commerce Commission, the state rate or fare must be so adjusted that the discrimination is removed. That this is the law is not open to dispute, since the decision in *Houston East and West Texas Railway* v. *United States*, 234 U. S., 342, the principle of which was reaffirmed in the *South Dakota Express Case* where the decision of this

court was rendered on June 11, 1917. (37 Sup. Ct. Rep., 656.) It is now generally recognized not only in the Federal Courts but in the State Courts. See *Eastern Texas Railway et al.* v. *Railroad Commission of Texas*, 242 Fed., 300, and *St. Louis, Iron Mountain & Southern R. Co. et al.* v. *State of Arkansas*, decision by the Supreme Court of Arkansas, July 14, 1917, 20 Traffic World, 130.

It is clear that the carriers have authority to maintain the 2.4-cent basis for interstate fares and to advance the intrastate fares to that basis. This matter is dealt with in the *South Dakota Case, supra*, where it is said:

> "In its specific direction the order merely prohibits charging higher rates to and from Sioux City than to and from the five South Dakota cities. It could be complied with (a) by reducing the interstate rates to the South Dakota scale, or (b) by raising the South Dakota rates to the interstate scale, or (c) by reducing one and raising the other until equality is reached in an intermediate scale. The report (which is made a part of the order) contains among other things, a finding that the interstate rate which was prescribed by the Commission was not shown to be unreasonable. This finding gives implied authority to the express companies both to maintain its interstate rates and to raise to their level the intrastate rates involved. The *Shreveport Case* (*Houston E. & W. T. R. Co.* v. *United States*, 234 U. S., 342). For, if the interstate rates are maintained the discrimination can be removed *only* by raising the intrastate rates."

The case at bar is even plainer than the above, because here is a specific finding that the 2.4-cent basis and the bridge tolls are reasonable.

III.

THE DISTRICT COURT WAS WITHOUT JURISDICTION TO SET ASIDE THE ORDER OF THE INTERSTATE COMMERCE COMMISSION. THAT COULD BE DONE ONLY IN A DIRECT PROCEEDING INSTITUTED IN THE EASTERN JUDICIAL DISTRICT OF MISSOURI, WHERE THE PETITIONER IN THE PROCEEDING BEFORE THE COMMISSION HAD ITS RESIDENCE.

The effect of the decision and decree of the District Court was to nullify and set aside an order of the Interstate Commerce Commission. It was the exercise of a jurisdiction which the court did not possess. The only court with jurisdiction to suspend or set aside the order of the Interstate Commerce Commission in the *Business Men's League case* was the District Court for the Eastern Division of the Eastern District of Missouri. The Illinois state authorities have not attacked the Commission's order there. The Business Men's League, the petitioner in the proceeding before the Interstate Commerce Commission, is a corporation duly organized and existing under the laws of the State of Missouri and having its principal office and place of business in the City of St. Louis, in the Eastern Judicial District of Missouri. The Urgent Deficiencies Act, approved October 22, 1913, is in part as follows:

> "The venue of any suit hereafter brought to enforce, suspend or set aside in whole or in part any order of the Interstate Commerce Commission, shall be in the Judicial District wherein is the residence of the party or any of the parties upon whose petition the order was made, except that where the order does not relate to transportation, or is not made

upon the petition of any party, the venue shall be in the district where the matter complained of in the petition before the Commission arises, and except where the order does not relate either to transportation or to a matter so complained of before the Commission the matter covered by the order, shall be deemed to arise in the district where one of the petitioners in court has either its principal office or its principal operating office."

There was no other petitioner before the Interstate Commerce Commission except the Business Men's League of St. Louis.

The effect of the decree of Judge Landis in dismissing the carriers' bills for want of equity, was to refuse to give any faith or credit to the order of the Commission. It was practically setting aside the order, as a whole and in every part, leaving nothing valid or effective. He expressly stated that in his opinion the order was void. We insist he had no lawful authority to pass upon that question. This could be done only by the District Court for the Eastern Judicial District of Missouri. That court could affirm, in whole or in part, limit, modify and correct the order of the Commission, or set it aside altogether. No other court could do so.

Even without the express statute disposing of this question the result would be the same. The rule that judgments of a court having jurisdiction of the parties and the subject matter cannot be attacked collaterally except for want of jurisdiction or fraud, applies also to the judgments of administrative and quasi-judi-

cial tribunals like the Interstate Commerce Commission.

In *Western Union Telegraph Co.* v. *Missouri ex rel. Gottlieb,* 190 U. S., 412 (1903), opinion by Mr. Justice McKenna, the court said, pages 426-427:

> "The Supreme Court of Missouri held, however, that plaintiff in error, could not, even under the cases cited by it, avail itself of the defense. The court said:
>
> 'The defendant cannot avail itself of these cases, for the reasons (1) that it seeks to raise the question of discrimination by a defense to an action at law to collect the taxes, and thereby collaterally attacks the judgment of the board of equalization; (2) that such questions can only be raised by a direct attack, in equity, and then only upon the condition precedent that it pays or tenders the amount justly due and only asks to have the collection of the excess restrained. This the defendant has not done in this case.' * * *
>
> We concur in this view. The proceedings before the board were quasi judicial, and the order made by it was within its jurisdiction. It was not void on its face, and cannot be resisted in an action at law. This is the principle announced in the case referred to. * * *
>
> And we think overvaluation of property cannot be a ground of defense at law. In other words, the action of the tax officers, being in the nature of a judgment, must be yielded to until set aside. This can only be done in a direct proceeding." * * *

In *Stanley* v. *Board of Suspensions,* 121 U. S., 535 (1887), opinion by Mr. Justice Field, the court said, page 551:

> "To those boards of revision, by whatever name they may be called, the citizen must apply for relief against excessive and irregular taxation, where the assessing officers had jurisdiction to assess the

property. Their action is judicial in its character. They pass judgment on the value of the property upon personal examination and evidence respecting it. Their action being judicial, their judgments in cases within their jurisdiction are not open to collateral attack. If not corrected by some of the modes pointed out by statute, they are conclusive, whatever errors may have been committed in the assessment." * * *

In *McLeod* v. *Receveur*, 71 Fed., 455 (1896), C. C. A., 7th Cir., it was held, page 458:

> "Their (officers of the board of equalization) judgments in cases within their jurisdiction, in the absence of fraud, are not open to collateral attack. They can only be impeached in a direct proceeding. *Stanley* v. *Supervisors*, 121 U. S., 535, 550.
>
> This immunity from collateral attack is applied not merely to courts of inferior jurisdiction, but to the numerous special tribunals through which the authority of the state is exercised. *City of Ft. Wayne* v. *Cody*, 43 Ind., 197," and other cases cited at page 458.

In *Eastern Texas Ry. Co. et al.* v. *Railroad Commission of Texas*, 242 Fed., 301 (1917), opinion by Circuit Judge Pardee, being a proceeding by the carriers against the state authorities to enjoin them from prosecuting the carriers for exceeding the maximum state rates, it is said at page 305:

> "We assume that the order of July 7, 1916, involved herein is valid (*Houston & Tex. Cent. Ry.* v. *United States*, 234 U. S., 342), and the validity thereof can only be attacked directly; and, whether it is properly in issue in this case, and whether the court has jurisdiction (see 38 Stat. at L., 219) can only be decided upon the trial thereof. It certainly cannot be attacked collaterally in any case."

IV.

THE CARRIERS, IN OBEYING THE ORDER OF THE COMMISSION, ARE ENTITLED TO AN INJUNCTION PROTECTING THEM FROM PROSECUTIONS BY THE STATE AUTHORITIES FOR ALLEGED VIOLATION OF THE STATE LAW.

This principle is so well settled, we submit it is unnecessary to support the same by any argument. We refer to the cases cited under Point IV of the Brief of the Argument.

The innumerable number and excessive character of the penalties provided by the Illinois law will be apparent from an inspection of the second section of the Maximum Rate Charges Law, quoted on pages 2-3 of this brief. The penalty is expressly imposed for "every such violation" of the statute.

V.

THE ORDER OF THE INTERSTATE COMMERCE COMMISSION DATED OCTOBER 17, 1916, IS STATE-WIDE IN ITS SCOPE AND EFFECT.

In discussing this subject it is necessary to keep in mind that there are three classes of discrimination condemned as unlawful in the Act to Regulate Commerce. Section 3 of the Act makes it unlawful for any carrier to give any undue preference and advantage to any particular person or locality or any particular description of traffic in any respect whatsoever or to subject any particular person or locality or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

The Commission found to exist and ordered to be removed

(a) The discrimination created by the maintenance between points in Illinois and East St. Louis, Illinois, of a basis of passenger fares lower than that contemporaneously maintained between points in Illinois and St. Louis;

(b) The maintenance between points in Illinois intermediate between St. Louis and points in Illinois of a basis of fares lower than that contemporaneously maintained between St. Louis and points in Illinois;

(c) The discrimination created by the maintenance between points in Illinois opposite Keokuk, Iowa, and other points in Illinois, of a basis of fares lower than that contemporaneously maintained between points in Illinois and Keokuk;

(d) The maintenance between points in Illinois intermediate between Keokuk and points in Illinois of a basis of fares lower than that contemporaneously maintained between Keokuk and points in Illinois;

(e) The discrimination against St. Louis and Keokuk and the undue preference and advantage in favor of Chicago, caused by the maintenance between Chicago and points in Illinois of a basis of fare lower than that contemporaneously maintained between St. Louis and Keokuk and points in Illinois;

(f) The maintenance of lower fares between points in Illinois intermediate between Chicago and points in Illinois than between St. Louis and Keokuk and points in Illinois.

The adjustment of fares between intermediate Illinois points was ordered because the maintenance of lower fares between points in Illinois than between St. Louis and Keokuk and points in Illinois afforded a means by which the interstate fare might be defeated by passengers who purchased tickets at the state fare between the intermediate points and continued their journeys from the intermediate point nearest the destination to the destination by paying the interstate fare; and for the further reason that by not advancing from a basis of 2 cents to 2.4 cents per mile, fares for travel between points intermediate between Chicago and points in Illinois, passengers could by the same method of buying two tickets defeat the operation of the 2.4-cent basis required between Chicago and points in Illinois, thus continuing the undue preferences in favor of intrastate commerce condemned in the Commission's report.

The order not only aimed at the discriminations against the localities as above indicated, but was directed against discriminations against interstate passenger traffic as such and undue preferences and advantages in favor of intrastate passenger traffic as such and also condemned undue preferences and advantages in favor of particu-

lar persons and unreasonable prejudices and disadvantages against others.

Measured by the terms of the law and the purpose to be accomplished by the order, it will be seen that the order is necessarily and inevitably state wide in its character. The railroad map which is a part of the record shows that every city, town or village in Illinois located upon an Illinois railroad is accessible to both St. Louis, Missouri, and Keokuk, Iowa, by means of rail transportation. Therefore every train operating on an Illinois railroad may carry passengers destined to either Keokuk or St. Louis. In the same train will be found passengers destined from points in Illinois to other points in Illinois. If such intrastate passengers may make all or any part of their journey for 2 cents per mile, while interstate passengers in the same train are charged the interstate rate of 2.4 cents per mile, the latter are subjected to an unreasonable discrimination and the former receive an undue preference or advantage. Both passengers ride on the same train, may be in the same car, and possibly in the same seat, receive identically the same service, but pay a different rate. That this creates an unreasonable discrimination which is condemned by the Act to regulate commerce seems too plain for argument.

The order specifically points out the discrimination against the localities of St. Louis and Keokuk, and the undue preferences and advantages in favor of the localities Chicago, East St. Louis and points in Illinois opposite Keokuk, Iowa. It is clear that if the Commission had gone no farther than to order the maintenance by the carriers of the same basis of fares between points in Illinois and East St. Louis and points in Illinois and other points in Illinois opposite Keokuk, Iowa, as was maintained between points in Illinois and St. Louis and Keokuk respectively, together with the maintenance of the

same basis of fares between points in Illinois and Chicago as was maintained between the same points in Illinois and St. Louis and Keokuk, respectively, a situation quite as much within the condemnation of the law would have remained as if no order had been entered.

And in this connection it is desirable to keep in mind the difference which exists between the handling of freight traffic and the handling of passengers. A passenger is an active, free agent. He gets on and off trains at stations according to his own will and desires. He purchases his own ticket, chooses his own routes. He is able to understand and take advantage of any situation whereby he can secure lower rate of fare for his journey.

A shipment of freight, from the time it is delivered to the carrier, is under the control of the carrier. It is not accompanied by the owner or the person who pays the freight charges. When it arrives at its destination it must be unloaded either by the carrier or by the consignee. If shipped to an intermediate point it is transferred or reconsigned by the carrier. It is, therefore, so difficult as to be almost impossible to defeat an interstate freight rate by stopping at an intermediate point and reshipping a consignment of freight. On the other hand, it is almost impossible to prevent a passenger from exercising his ingenuity and acting upon it in defeating an interstate passenger fare. That this practice existed to a very considerable extent was found to be true by the Commission, and its order specifically directed the removal of a situation which made the practice possible.

This practice is clearly illustrated by the Commission in its Report (Rec., 37):

> "The fare between St. Louis and Chicago before July 1, 1907, and $7.50; from that date to December 1, 1914, $5.80; and it is now $7.50. The fare between East St. Louis and Chicago has been $5.62 for about nine years, so that whereas there existed

a difference in fare as between the two cities of 18 cents, that difference is now $1.88. As a consequence of this disparity in fares, large numbers of passengers from St. Louis to Illinois points purchase tickets from St. Louis to East St. Louis for 25 cents; there they buy tickets from East St. Louis to their destinations in Illinois at the fares whose maximum is fixed at 2 cents a mile by the Illinois legislature. Others cross the river by bridge in street cars or cabs and begin their railroad travel at East St. Louis. Resort to similar means is adopted when the travel is in the reverse direction."

Inasmuch as passenger traffic exists between each and every point in Illinois and St. Louis and Keokuk, it is necessary to make the basis of fares between all points in Illinois the same as the interstate basis in order to prevent the defeat, to a greater or less extent, of the interstate rate by the purchase of tickets to intermediate points at the State rate and the conclusion of the journey by the passenger at the interstate rate. It is true the saving to the passenger is greatest where the intrastate ticket is purchased from the point where the journey commences to the point in Illinois nearest to the ultimate interstate destination, but it is also true that to some extent the practice is profitable to the passenger where tickets between any two stations in Illinois are purchased at the state rate when it is to be made part of an interstate journey. Such practices have been held illegal in *M. K. & T. Ry.* v. *Ashinger* (Oklahoma, 1917), 162 Pac. Rep., 814, and in *I. C. R. R.* v. *Holman,* 106 Miss., 450, 64 So. Rep., 7.

In the last-named case, commenting upon the rate-beating and often disorderly practices which have existed at state lines where the states have maintained rates below those collected of interstate passengers, practices which the Interstate Commerce Commission found to exist in the present case, the Supreme Court of Mississippi said:

"Mr. Holman was an interstate passenger. He

boarded the train at Grenada to go to Memphis—his destination was outside this state. The provisions of the act of Congress cannot be nullified by evasion, or subterfuge, nor could the railroad company escape the penalties for its violation by shutting its eyes to the fact that Mr. Holman was attempting to pay a part of his fare from Grenada to Memphis with mileage issued for advertising and not paid for in cash. The mere stepping off the train at Sardis did not change the passenger from an interstate passenger to an intrastate passenger. * * * The act of Congress was adopted for the purpose of putting everybody upon equal terms, and to destroy the pernicious practice of discrimination."

The state courts are at last coming to the view that whenever conflict between state and interstate rates arises the state authorities should yield.

In like manner the Supreme Court of Arkansas, in a decision rendered on July 9, 1917, in the case of *St. Louis, Iron Mountain & Southern Railway, etc.*, v. *State* (20 Traffic World, 130), which was an action to recover a statutory penalty for a charge in excess of the rate fixed by the Arkansas Railroad Commission, made on two state shipments, after reviewing fully the decisions of this court in the *Shreveport Case* and in the *South Dakota Express Case*, upheld the carriers in bringing up their state rates to the level prescribed by the Interstate Commerce Commission, saying:

> "The necessary effect of these decisions is that the railway may charge the rate approved by the Interstate Commerce Commission in its interstate shipments and that it may comply with the order of that Commission to remove existing discriminations against interstate shipments by raising the intrastate rate to such a point that, according to the ruling of the Interstate Commerce Commission, a discrimination will not exist."

The learned trial judge referred to the raising of fares

between Wilmette and Evanston, stations on the Chicago & North Western Railroad a few miles apart, in the northern part of Illinois. If the state rate were maintained locally between these stations, a passenger from Wilmette on his way to St. Louis could purchase a ticket to Evanston at the state rate and save a small sum of money by purchasing his interstate ticket from Evanston on to the point of his ultimate destination. That the saving is small is no answer to the proposition that the maintenance of the state fare between these two stations affords a means by which to some extent the interstate fare can be defeated.

Using the same stations as an illustration, the passenger purchasing his ticket from Wilmette to St. Louis would pay 2.4 cents for each mile of the journey between Wilmette and Evanston. There might be, sitting in the same seat with him, a passenger traveling from Wilmette to Evanston on the basis of the state fare; a discrimination against one and a preference in favor of the other which requires no argument to demonstrate.

One purpose of the Commission's order was to remove a discrimination against interstate commerce. To do this it is necessary to put St. Louis and Keokuk in the same situation so far as commerce between them and Illinois points is concerned, as if St. Louis and Keokuk were as a matter of fact in Illinois. Otherwise there is a discrimination against interstate commerce. A passenger who intends to visit a city will, all things being equal, naturally go to the place where the journey can be accomplished by the smallest expenditure. Therefore persons approximately the same distance from Chicago and from either Keokuk or St. Louis, will visit Chicago if they can do so at fares on a basis of 2 cents per mile while a higher basis is contemporaneously maintained to St. Louis and Keokuk. Thus a preference and advantage is given to

commerce within the State, and interstate commerce is subjected to a discrimination. In the same way a person living 100 miles from Chicago would be enabled to visit Chicago for a fare of $2, while a person 100 miles distant from St. Louis would be required to pay $2.40 and bridge tolls to make a journey of the same length. The freedom of travel in interstate commerce is thereby restricted and burdened, a situation which should not exist and which the Commission has ordered to be removed.

The Commission's report of July 12, 1916, and its supplemental report of October 17, 1916, are made a part of its order of October 17, 1916, and the law of the land, including Section 3 of the Act to Regulate Commerce, is likewise a part of that order. Thus, we say that after doing all the things required and permitted, in the light of the Commission's reports and in accordance with the law governing the actions of carriers, there is no residue, and a statewide advance is the result.

The unlawful burden which the Commission found was cast on interstate commerce by the interstate fares, as the result of unjust discrimination and undue preference *between classes of passenger traffic*, aside from other forms of discrimination and preference, *operates throughout the State of Illinois and between all points in the state.*

The bridge tolls found reasonable are now and have been for many years the compensation for all the service across the Mississippi River between the east and west side points. Therefore, the *interstate* fares between St. Louis and points in Illinois are calculated *for the distance of transportation within Illinois,* plus the bridge tolls. The *intrastate* fares are likewise calculated for the distance of transportation within Illinois. The entire controversy has to do with the difference in the *basis* of

fares for *interstate* passengers on the one hand and for intrastate passengers on the other, but always with travel of the two kinds of passengers over rails situated in Illinois and nowhere else.

Aside from unjust discrimination and undue preference as between *persons*, and as between *localities*, there was presented to the Commission a strong case of unjust discrimination *against interstate passenger traffic* between St. Louis and Keokuk and points in Illinois, as a traffic, and undue preference *in favor of intrastate-Illinois passenger traffic*, as a traffic, caused by the lower basis of fares on state traffic than on interstate traffic for the same character of service. The maximum state fare of 2 cents per mile was fixed generally and applied in all parts of the state. The discrimination found general on account of the lower basis of state fares maintained throughout the state than is maintained for the construction of the interstate fares, arises not in relation alone to a separate and particular line, but it *inheres in the lower basis* of passenger fares on state traffic than is contemporaneously maintained for the same character of service on interstate traffic. The question of the justice of the discrimination depends largely upon whether one class of traffic is made to bear an undue proportion of the cost of transportation. If the higher interstate fares compel the interstate passenger traffic to bear more than its fair share of the total cost of passenger traffic, an undue disadvantage is sustained by the interstate traffic, and the state traffic is thereby unduly preferred. To charge the interstate passenger traffic for 100 miles $2.50 and the intrastate passenger traffic for 100 miles, under identical circumstances and conditions, only $2.00 appears upon the face of it to place an unwarranted burden on interstate traffic. It is not worth any more to the passenger

to be carried 100 miles on an interstate journey than to be carried 100 miles on a state journey. The state and interstate passengers ride in the same trains and in the same cars and receive the same service, but the state passenger pays only four-fifths as much as the interstate passenger; thus for $7.50 (bridge tolls excepted) the interstate passenger might travel 300 miles in Illinois, but the state passenger at 2 cents per mile could travel 75 miles farther.

This discrimination as between classes of passenger traffic arises out of the *abnormal relation* of fares caused by the act of the Illinois Legislature, and not by any action purely voluntary on the part of the carriers.

This discrimination as to traffic, as such, *is general in its nature and applies to the entire passenger traffic in the State of Illinois.* The charging of a higher basis on interstate traffic than on state traffic for the same service under similar conditions is unlawful under Section 3 of the act and it was so held by the Commission. It found that the contemporaneous maintenance of fares higher between St. Louis and points in Illinois than between points in Illinois by more than the bridge tolls gives undue and unreasonable preference "to intrastate passenger traffic in Illinois"; also, that the contemporaneous maintenance of passenger fares lower between the east side points and points in Illinois than between St. Louis and Keokuk and points in Illinois via the same routes by more than the bridge tolls "gives undue and unreasonable preference and advantage to intrastate passenger traffic in Illinois originating or terminating" at the east side points; also, that the "aforesaid preference and advantage to intrastate passenger travel in Illinois and to the Illinois points thereby preferred and advantaged creates and imposes an unreasonable

and unlawful burden on interstate passenger traffic." (Rec., 45-47.)

In its supplemental report of October 17, 1916, the Commission said that "the burden and discrimination *which a lower basis of fares within the state casts upon interstate commerce* would not be removed merely by an increase in the intrastate fares to and from the east bank points"; and it made the further finding that:

> "Any contemporaneous adjustments of fares between St. Louis or Keokuk and Illinois points, *and generally within Illinois*, which would permit the defeat of the St. Louis, Keokuk, East St. Louis, or any other east side city fares by methods such as described above, and which would thereby permit the continuance of the undue prejudice which we have found is suffered by St. Louis and Keokuk, and *continue to burden interstate commerce*, will not comply with the amended order entered herein." (Rec, 54.)

To continue intrastate fares from point to point upon a basis of 2 cents per mile while interstate fares are upon a basis of 2.4 cents per mile, the transportation circumstances and conditions being identical, would be "to continue to burden interstate commerce" and give preference to the intrastate commerce within the state generally at the expense of the interstate commerce. Furthermore, it would permit the defeating of the St. Louis, Keokuk, East St. Louis and other east side city fares; it would also permit the defeating of the Chicago intrastate fares established upon a 2.4-cent basis, and it would permit the continuance of the undue prejudice which the Commission found was suffered by St. Louis and Keokuk.

The Commerce Court said in substance in the *Shreveport Case* (*Texas & Pacific Ry. Co.* v. *United States*), 205 Fed., 382, that the Interstate Commerce Com-

mission found the interstate rates reasonable; that it found the circumstances and conditions under which the interstate and intrastate transportation are carried on are identical, that the relationship of the lower intrastate rates to the reasonable interstate rates burdened the interstate commerce to the extent of the difference in said rates; and the Commerce Court concludes: "This involves the further consequence that the Texas Commission by imposing upon petitioner lower rates than it should rightfully receive *has in point of fact placed an undue burden upon interstate commerce, and thereby obstructed the freedom of its movement.*" (Italics are ours.) In affirming the Commerce Court the Supreme Court recognized intrastate traffic as a "particular description of traffic." (*Shreveport Case,* 234 U. S., p. 357.)

It is therefore apparent that the handling of the intrastate passenger traffic upon a basis which is 20 per cent. lower than the basis found reasonable for the handling of the interstate passenger traffic, under the same circumstances and conditions, places an undue burden on the interstate passenger traffic, and prefers the intrastate passenger traffic, and the Commission properly so held.

We respectfully suggest an analysis of the order, taken in connection with the railroad map which is a part of the record in this case, is convincing that the purposes of the order can be accomplished only by putting all fares in Illinois on a parity with the fares between points in

Illinois and St. Louis and Keokuk as was sought to be accomplished by the tariffs filed by the carriers.

The decree of the District Court in Case No. 416 should be reversed.

Respectfully submitted,

SILAS H. STRAWN,
ROBERT BRUCE SCOTT,
ANDREW P. HUMBURG,
Solicitors for Carriers.

Of Counsel.

Gardiner Lathrop and T. J. Norton,
For The Achison, Topeka & Santa Fe Railway Company,

Edward C. Kramer,
For The Baltimore & Ohio Southwestern Railroad Company,

O. M. Spencer and Robert Bruce Scott,
For Chicago, Burlington & Quincy Railroad Company,

John Barton Payne,
For Chicago Great Western Railroad Company,

Burton Hanson and O. W. Dynes,
For Chicago, Milwaukee & St. Paul Railway Company,

P. B. Warren,
For Chicago, Peoria & St. Louis Railroad Company and Bluford Wilson and Wm. Cotter, Receivers,

M. L. Bell and W. F. Dickinson,
For The Chicago, Rock Island & Pacific Railway Company,

Silas H. Strawn and Walter H. Jacobs,
For The Chicago & Alton Railroad Company,

Homer T. Dick,
For Chicago & Eastern Illinois Railroad Company and Wm. J. Jackson, Receiver,

Silas H. Strawn and Walter H. Jacobs,
For Chicago & Illinois Midland Railway Company,

Edward M. Hyzer, C. C. Wright, E. M. Smart and R. H. Widdicombe,
For Chicago & North Western Railway Company,

L. J. Hackney and Charles P. Stewart,
For The Cleveland, Cincinnati, Chicago & St. Louis Railway Company,

Harvey J. Elam,
For The Cincinnati, Indianapolis & Western Railroad Company,

Blewett Lee, Walter S. Horton and Andrew P. Humburg,
For Illinois Central Railroad Company,

Edward C. Kramer,
For The Illinois Southern Railway Company,

Robert J. Cary,
For The Lake Erie & Western Railroad Company,

H. L. Stone, W. A. Northcutt, J. M. Hamill and Edward D. Mohr,
For Louisville & Nashville Railroad Company,

Silas H. Strawn and Walter H. Jacobs,
For The Michigan Central Railroad Company,

F. M. Miner and Shirley T. High,
For The Minneapolis & St. Louis Railroad Company,

Alfred H. Bright and John L. McInerney,
For Minneapolis, St. Paul & Sault Ste. Marie Railway Company,

Sidney R. Prince and Edward C. Kramer,
For Mobile & Ohio Railroad Company,

Robert J. Cary,
For The New York Central Railroad Company,

D. P. Williams and R. W. Richards,
For Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company,

Robert Bruce Scott,
For Rock Island Southern Railway,

Alexander P. Humphrey and Edward C. Kramer,
For Southern Railway Company,

Edward J. White, Henry G. Herbel and Fred G. Wright,
For St. Louis, Iron Mountain & Southern Railway Company and B. F. Bush, Receiver,

Clarence Brown,
For Toledo, St. Louis & Western Railroad Company and W. L. Ross, Receiver,

J. M. Elliott,
For Toledo, Peoria & Western Railway Company,

J. L. Minnis and N. S. Brown,
For Wabash Railway Company.

Office Supreme Court, U. S.
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SEP 26 1917
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IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1917.

ILLINOIS CENTRAL RAILROAD COMPANY, *Appellant,* v. STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, EDWARD J. BRUNDAGE, ATTORNEY-GENERAL, ET AL., *Appellees.*	No. 416.
STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, ET AL., *Appellants,* v. UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ILLINOIS CENTRAL RAILROAD COMPANY, ET AL., *Appellees.*	No. 448.

Appeals from the District Court of the United States for the Northern District of Illinois.

ILLINOIS PASSENGER FARE CASES.

BRIEF AND ARGUMENT FOR SOUTHERN RAILWAY COMPANY AND MOBILE & OHIO RAILROAD COMPANY.

SYDNEY R. PRINCE,
EDWARD C. KRAMER,
ALEX'R POPE HUMPHREY,
Counsel.

September 22, 1917

STANDARD PRINTING COMPANY, LOUISVILLE, KY.

IN THE

Supreme Court of the United States.

OCTOBER TERM, A. D. 1917.

ILLINOIS CENTRAL RAILROAD COMPANY, ... APPELLANT, *vs.* STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, EDWARD J. BRUNDAGE, ATTORNEY GENERAL, ET AL., ... APPELLEES.	No. 416.
STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, ET AL., APPELLANTS, *vs.* UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ILLINOIS CENTRAL RAILROAD COMPANY, ET AL., APPELLEES.	No. 448.

Appeals from the District Court of the United States for the Northern District of Illinois.

ILLINOIS PASSENGER FARE CASES.

BRIEF AND ARGUMENT FOR SOUTHERN RAILWAY COMPANY AND MOBILE & OHIO RAILROAD COMPANY.

The Mobile & Ohio Railroad Company and the Southern Railway Company were parties to the proceeding brought by the Business Men's League of St. Louis. Each of them filed a bill and a supplemental bill in the District Court of the United States for the Northern District of Illinois and their cases

were consolidated with the various others under the style of the Illinois Central Railroad Company.

In order to avoid the expense of useless [illegible] neither the bill nor the supplemental bill of [illegible] these carriers is contained in the printed record.

So far as the State of Illinois is concerned, the Southern Railway Company owns and operates a line of road from East St. Louis, running in an eastern direction, to Mount Carmel, Illinois, this place being situate on the Wabash River, the dividing line between Indiana and Illinois.

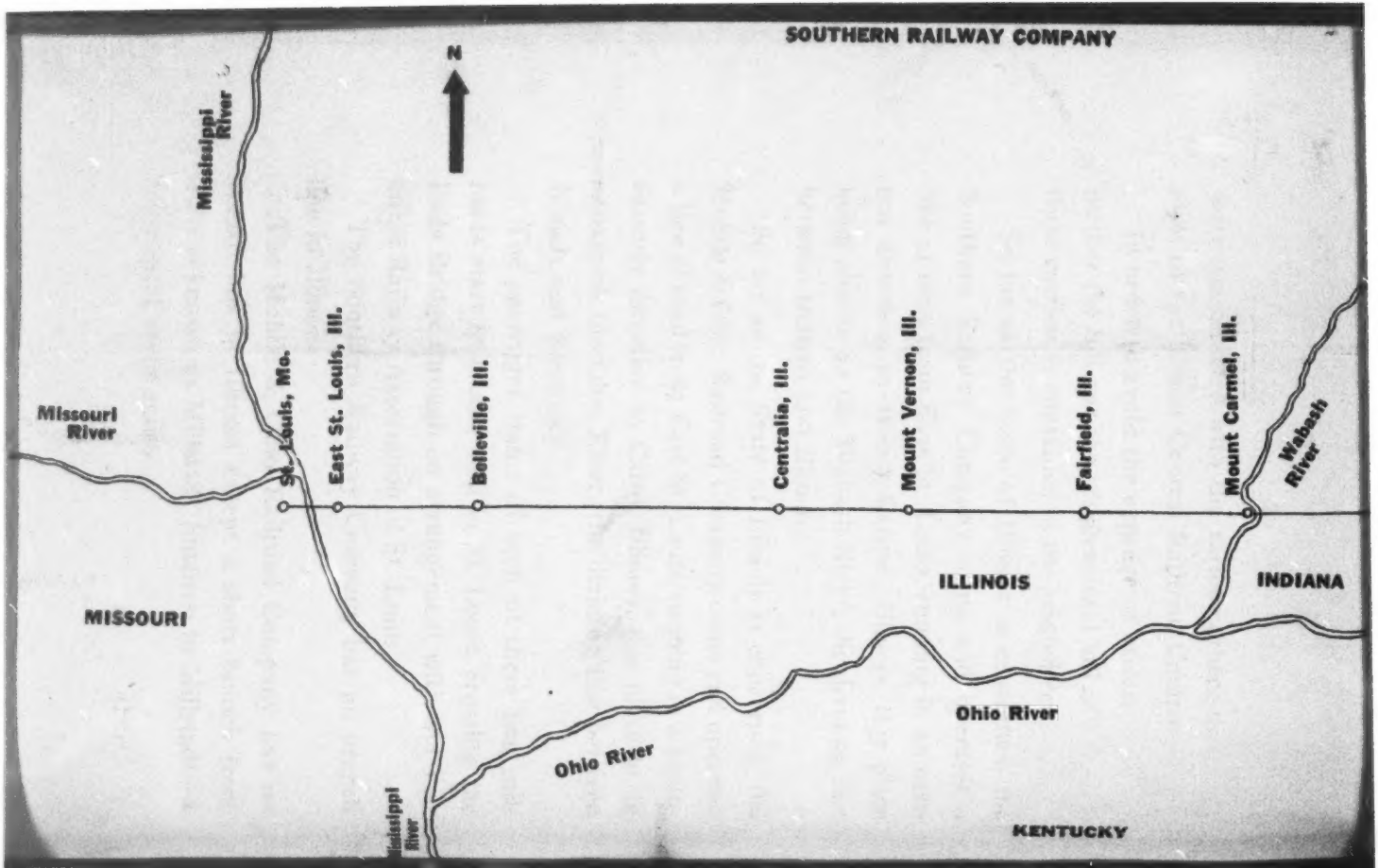
So far as the State of Illinois is concerned, the Mobile & Ohio Railroad Company owns and operates a line of road from East St. Louis, running in a southeasterly direction to Cairo, Illinois, this place being situate on the Ohio River, the dividing line between Illinois and Kentucky.

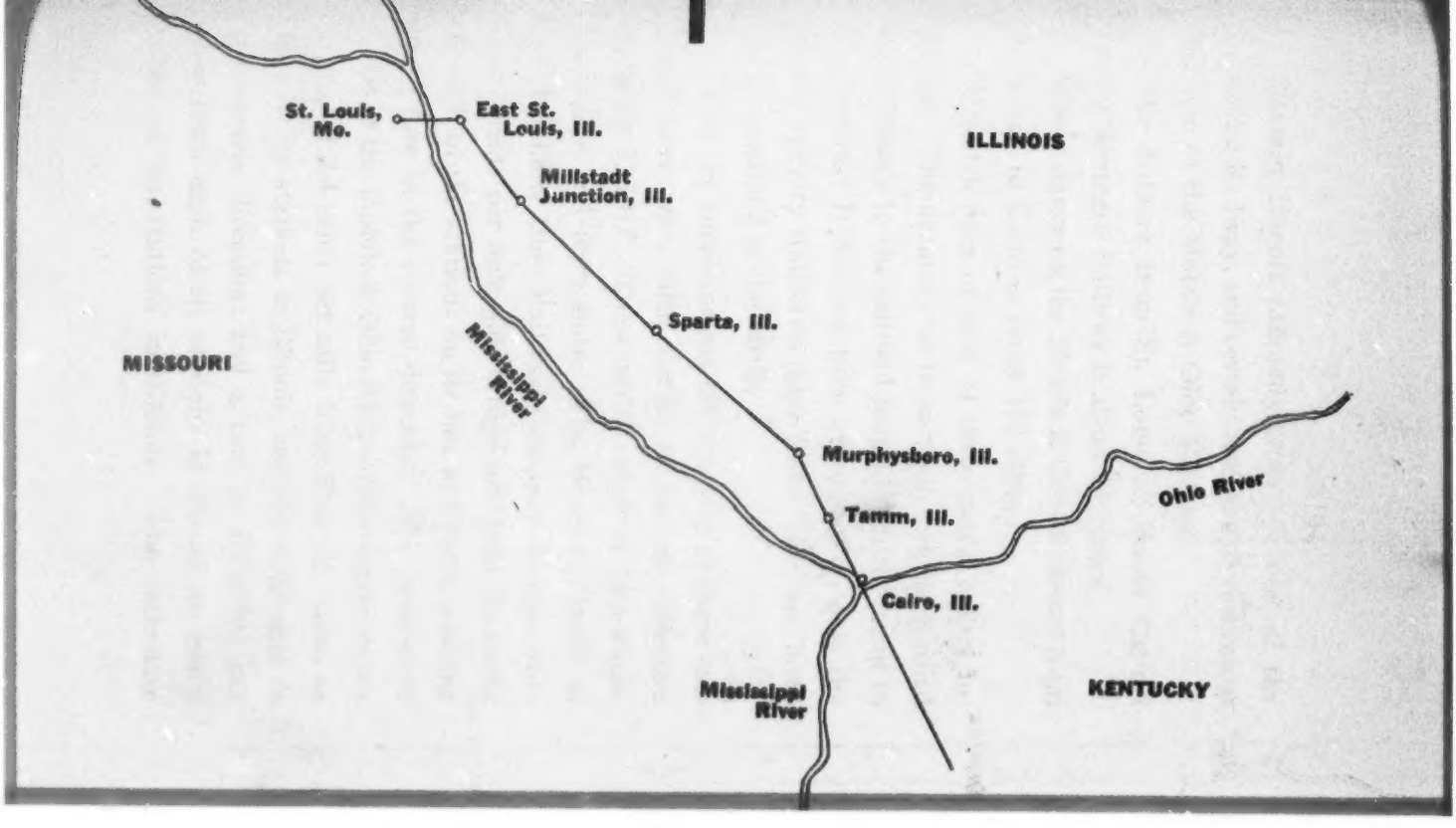
The passenger trains of each of these two railroads start from and stop in St. Louis, crossing the Eads Bridge through an arrangement with the Terminal Railway Association of St. Louis.

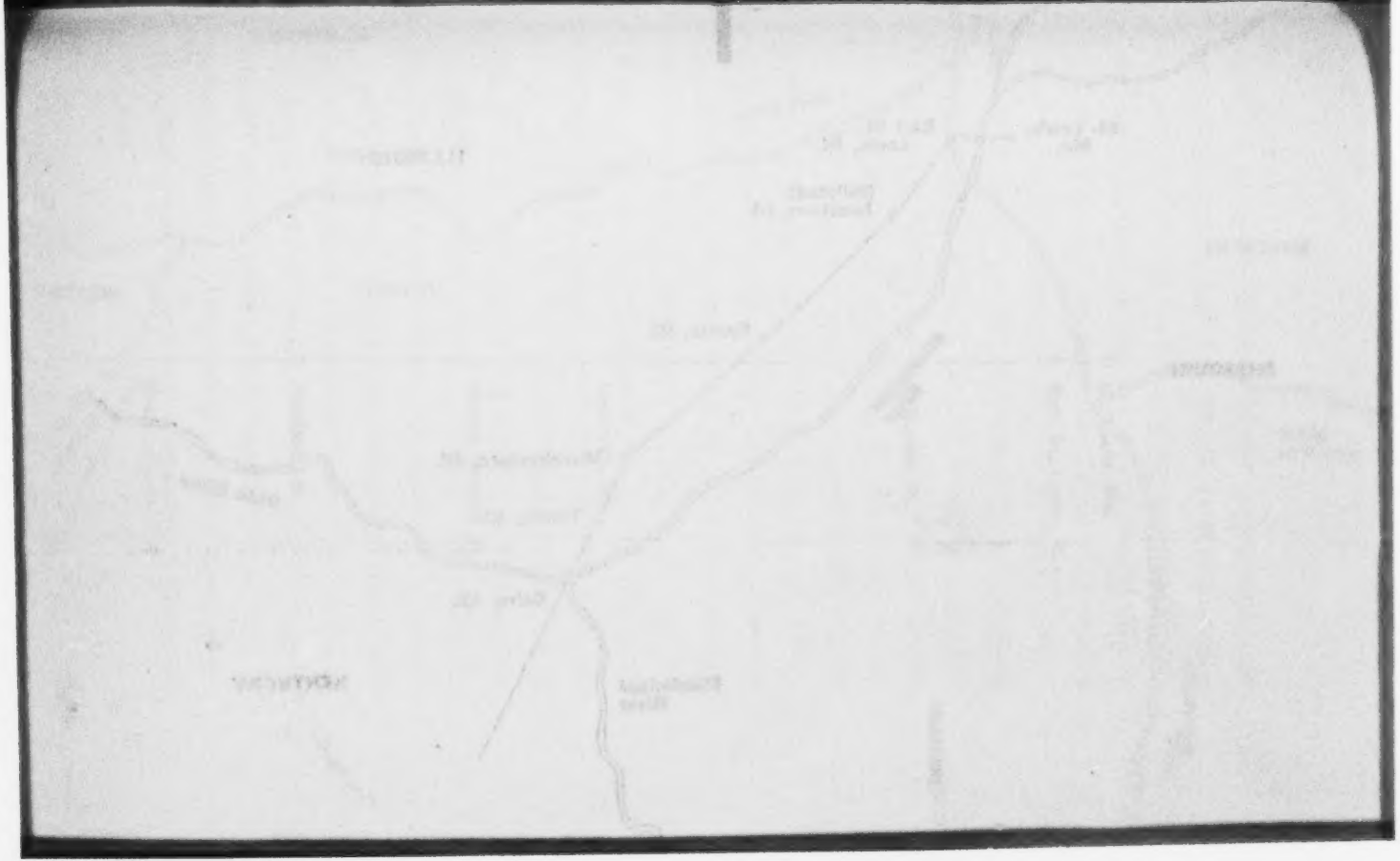
The Southern Railway Company has no branch line in Illinois.

The Mobile & Ohio Railroad Company has no branch line in Illinois except a short branch from what is known as Millstadt Junction to Millstadt—a distance of seven miles.

R COPY


SOUTHERN RAILWAY COMPANY
N
Mississippi River
Missouri River
St. Louis, Mo.
East St. Louis, Ill.
Belleville, Ill.
Centralia, Ill.
Mount Vernon, Ill.
Fairfield, Ill.
Mount Carmel, Ill.
Wabash River
MISSOURI
ILLINOIS
INDIANA
Ohio River
Ohio River
Mississippi River
KENTUCKY


St. Louis, Mo.
East St. Louis, Ill.
ILLINOIS
Millstadt Junction, Ill.
Sparta, Ill.
MISSOURI
Mississippi River
Murphysboro, Ill.
Tamm, Ill.
Ohio River
Cairo, Ill.
Mississippi River
KENTUCKY



Certain Illinois railroads cross the line of the Southern Railway, and certain Illinois railroads cross the line of the Mobile & Ohio Railroad.

The distance from St. Louis to Mount Carmel by the Southern Railway is about 151 miles.

The distance on the Mobile & Ohio Railroad from St. Louis to Cairo is about 155 miles.

A sketch map of each of these roads is here inserted. The accuracy of these maps can be verified by reference to the railroad map of Illinois found in the record. It has not been attempted to give the names of every station on these lines. They are, however, contained in the tariffs.

With the supplemental bill for each of these carriers there were filed tariffs to become effective January 1, 1917. These tariffs were of two kinds, interstate and intra-state. The interstate tariff of the Mobile & Ohio Railroad Company shows a rate of 2.4 cents per mile plus bridge toll from St. Louis to each of the stations on its line in Illinois, and the same rate in the reverse direction. The intra-state tariff of the Mobile & Ohio Railroad Company shows a rate of 2.4 cents per mile from East St. Louis to each of its stations in Illinois, and the same rate in the reverse direction; and a rate of 2.4 cents per mile from each of its stations in Illinois to every other of its stations in Illinois. The interstate

tariff of the Southern Railway Company shows a rate of 2.4 cents per mile plus bridge toll from St. Louis to each of the stations on its line in Illinois, and the same rate in the reverse direction. The intra-state tariff of the Southern Railway Company shows a rate of 2.4 cents per mile from East St. Louis to each of its stations in Illinois, and the same rate in the reverse direction; and a rate of 2.4 cents per mile from each of its stations in Illinois to every other of its stations in Illinois.

Neither of these intra-state tariffs fixes any inter-line rate, the intra-state tariff of each road being confined entirely to rates on its own line.

These tariffs were, as above stated, filed with the supplemental bills and are a part of the record in this court. They are referred to on page 192 of the printed record as M. & O. exhibits 131-134 and Southern exhibits 135-139. It was unnecessary to print them as the accuracy of our statement as to their contents is admitted by the defendants to our bills.

We have no purpose in filing this separate brief to attempt to re-argue the questions in this case which are dealt with in the main brief filed on behalf of the Illinois Central Railroad Company as representing the appellants. We submit as earnestly as it is argued in that brief, that the order of the Interstate Commerce Commission demanded a state-wide

re-arrangement of rates to be applied as between every station in Illinois. We simply desire to call the attention of the Court to the following language in the order of the Interstate Commerce Commission dated October 17, 1916, to wit:

"It is further ordered, That the above named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to establish and put in force on or before January 15, 1917, upon notice to this Commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in Section 6 of the act to regulate commerce, and thereafter to maintain and apply to the transportation of passengers between St. Louis and points in Illinois fares upon a basis not in excess of the fares between East St. Louis, Ill., and the same points by more than a reasonable bridge toll; nor upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained between Illinois points intermediate between St. Louis and points in Illinois, as such fares have been found in said report to be unlawfully discriminatory." (R. 57.)

We also call attention to the illustrative map in the supplemental report of the Commission on page 54 of the record.

We find it difficult to imagine how language

could more plainly describe the tariffs which the Southern Railway Company and the Mobile & Ohio Railroad Company were directed to promulgate. And we find it equally difficult to see in what respect the tariffs actually promulgated in obedience to that order fail to conform to it.

It seems clear to us that under the doctrine announced in the Shreveport and South Dakota cases, the order of the Commission is legal and valid and binding upon these carriers.

We respectfully submit that the judgments herein should be reversed and the injunction in each case granted as prayed.

SYDNEY R. PRINCE,
EDWARD C. KRAMER,
ALEX'R. POPE HUMPHREY,
Counsel for
Southern Railway Company and
Mobile & Ohio Railroad Company.

SEP 17 1917
JAMES D. MAHER

IN THE

Supreme Court

OF THE UNITED STATES

October Term, A. D. 1917.

ILLINOIS CENTRAL RAILROAD COMPANY,

Appellant,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, EDWARD J. BRUNDAGE, ATTORNEY GENERAL, ET AL.

Appellees.

No. 448.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, EDWARD J. BRUNDAGE, ATTORNEY GENERAL, ET AL.

Appellants,

vs.

THE UNITED STATES, INTERSTATE COMMERCE COMMISSION, ILLINOIS CENTRAL RAILROAD COMPANY, ET AL.

Appellees.

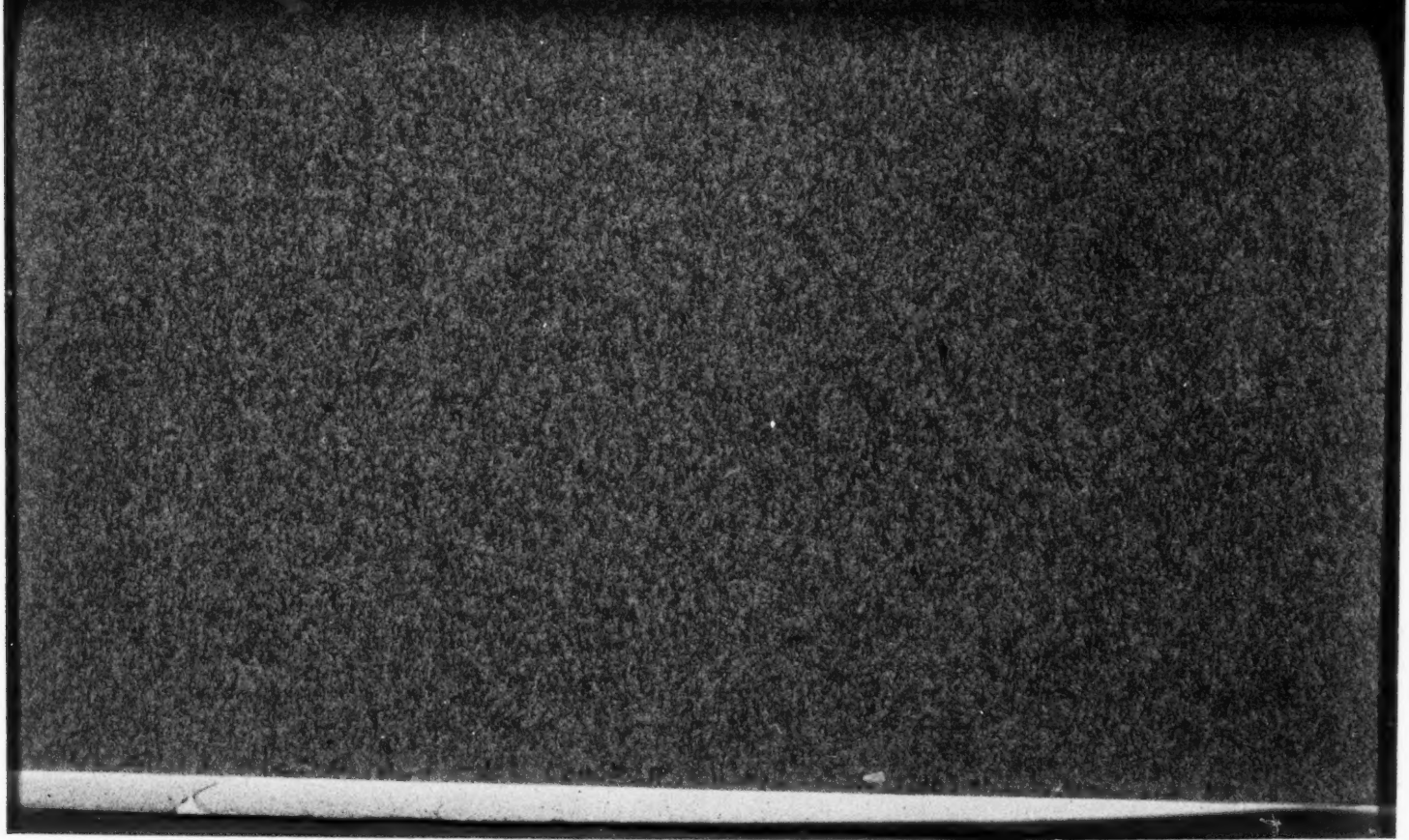
No. 449.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

Brief on Behalf of State Public Utilities Commission of Illinois, Edward J. Brundage, Attorney General of Illinois, et al., on Cross-Appeal from Order Dismissing Cross-Bill and on Appeal from Order Dismissing Bill and Cross-Bill.

Edward J. Brundage,
Attorney General,
Counsel for Appellants.

Frank E. Watkins,
George F. Bloodgood,
Assistant Attorneys General,
Of Counsel.



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IN THE

Supreme Court

OF THE UNITED STATES

October Term, A. D. 1917.

ILLINOIS CENTRAL RAILROAD COMPANY,
Appellant,
v.
STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, EDWARD J. BRUNDAGE, ATTORNEY GENERAL, ET AL.
Appellees,
No. 416.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, EDWARD J. BRUNDAGE, ATTORNEY GENERAL ET AL.,
Appellants,
v.
THE UNITED STATES, INTERSTATE COMMERCE COMMISSION, ILLINOIS CENTRAL RAILROAD COMPANY ET AL.
Appellees,
No. 448.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

Brief on Behalf of State Public Utilities Commission of Illinois, Edward J. Brundage, Attorney General of Illinois, et al, on Cross-Appeal from Order Dismissing Cross-Bill as to the United States and the Interstate Commerce Commission.

STATEMENT.

This appeal is from an order entered on January 6, 1917, (Rec. 114-117) dismissing the cross-bill or counter-claim of these cross-appellants as to the United States of America and the Interstate Commerce Commission, on the ground that the proper venue of the proceeding against them was not, under the provisions of

the Act of October 22, 1913, C. 32 (38 Stat. 219) in the Northe District of Illinois. The answers filed by the United States a the Interstate Commerce Commission (Rec. 101, 91) and the ord of the court (Rec. 115) show that this was the sole ground for t dismissal as to those cross-defendants; and the court in allowi this cross-appeal (Rec. 229) certified the question of the jurisdi tion of the court to this Court for decision.

The relation of this cross-appeal to the other questions befo the court for decision arising from the dismissal of the origin bill for want of equity (Rec. 147) obviously is dependent, to so extent, upon the view which the Court adopts as to the corre ness of the decree in the main suit.

The record, so far as it is essential to the questions on t cross-appeal, summarized as briefly as possible, is as follows:

Original Bill of Complaint.

The plaintiff in each of these consolidated cases is a railro common carrier. The defendants are the State Public Utiliti Commission of Illinois, and its members, the Attorney General Illinois, and the State's attorney of each of the counties throu which the carrier operates its lines.

The bill states:

(1) The plaintiff (in the Illinois Central Railroad Compa case) is an Illinois corporation engaged in the transportation passengers as a common carrier by rail, through certain designat counties in Illinois, with its principal office at Chicago, Illin and is subject to the provisions of the Interstate Commerce A The State Public Utilities Commission of Illinois derives its thority from the statute entitled "An Act to provide for the re lation of public utilities," approved June 30, 1913. (Rec. 9-16.

(2) The case involves a question under the Constitution laws of the United States; the amount involved is in excess three thousand dollars; the action is of a civil nature and invol

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he right of the plaintiff to put in force intrastate passenger fares n Illinois found by the Interstate Commerce Commission to be easonable, and established by the commission to remove undue nd unreasonable discrimination. (Rec. 17.)

(3) The Illinois statute, approved May 27, 1907, effective uly 1, 1907, makes it unlawful for a railroad carrier of passengers etween points in Illinois to charge in excess of two cents per ile for the carriage of its passengers, where any passenger has urchased a ticket, or in excess of one cent per mile for the car- iage of a passenger under twelve years of age, where such pas- enger has purchased a ticket. The Act provides penalties of ot less than twenty-five nor more than a hundred dollars, for each iolation of the statute, to be recovered at the suit of the Attor- ey General of Illinois or the State's attorney of any county hrough which the lines of the carrier run. (Rec. 17.)

(4) From July 1, 1907, to December 1, 1914, passenger fares etween St. Louis, Missouri, and points in Illinois, on plaintiff's nes, were on the basis of two cents per mile, plus the bridge toll ross the Mississippi River. On December 1, 1914, this rate was dvanced to 2½ cents per mile, which rate, as to certain points, as, on January 15, 1916, reduced to 2.4 cents per mile. During ll the time since July 1, 1907, intrastate fares between points in llinois have been on the basis required by the Illinois statute.

(5) In June, 1915, the Business Men's League of St. Louis, corporation, filed complaint with the Interstate Commerce Com- ission, charging that passenger fares between St. Louis, Mis- ouri, and points in Illinois were unjust and unreasonable and nduly discriminatory as against St. Louis, on the one hand, and favor of East St. Louis, Chicago and other Illinois points, on he other. Practically all of the railroads in Illinois were made efendants in the proceeding. The Chicago Association of Com- erce, the State Public Utilities Commission of Illinois, the East ide Manufacturers' Association representing interests in East

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St. Louis, Madison and Granite City, Illinois, the Keokuk I dustrial Association, and the Attorney General of Illinois inte vened. (Rec. 18-19.)

(6) On July 12, 1916, the commission filed its report a order, which are made part of the bill of complaint. (Rec. 31-5 (For this report and order, see *Business Men's League of S Louis* v. *Atchison, T. & S. F. R. Co.*, 41 I. C. C. R. 13-29.) Th order and the findings of the Commission which are expres made part of it are analyzed in the brief (infra p. 30.) Whi this order and these findings are ambiguous and indefinite, the is no attempt on the part of the Commission (with the possib exception of the last provision in the order) to exercise contr over any Illinois intrastate fares, except those between East S Louis, Madison and Granite City, and other points in Illino cities directly opposite Keokuk, Iowa, and other points in Illino and Chicago and other points in Illinois. We shall contend th a consideration of this order, in its relation to the order fina entered before the Commission, demonstrates that the final ord of the commission was not based upon the petition of either t Business Men's League of St. Louis, complainant before t Commission, or the Keokuk Industrial Association, interven within any reasonable interpretation of the provision of the A as to venue (38 Stat. 219); but was made by the Commission its own motion and beyond the scope of the matters present by the complaint and intervening petition . (Rec. 20.) (See S tion 15 of the Interstate Commerce Act, as amended.)

(7) The effective date of the Commission's order was tended until November 16, 1916. (Rec. 20.)

(8) The effective date of the Commission's order was furt extended until the further order of the Commission. (Rec. 20.

(9) On October 17, 1916, the Commission made a supp mental report and order, which was the order under which plaintiff claims the right to disregard the Illinois Passenger F

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statute, and to raise all of its Illinois intrastate fares to a basis of 2.4 cents per mile. (Rec. 21.) This order is analyzed (infra p. 30) in connection with the discussion of the question of venue presented by this appeal.

(10) Plaintiff, acting under the compulsion of this order, has prepared schedules effective January 15, 1917, advancing its Illinois intrastate rates to a basis of 2.4 cents per mile. (Rec. 22.)

(11) The Public Utilities law of Illinois contains provisions relative to the filing of schedules, the suspension thereof, and compliance therewith, which fix penalties for violations of the statute and the orders of the Commission. The Illinois officers have threatened plaintiff with prosecution under the Illinois Passenger Fare law and the Public Utilities law, in case the plaintiff undertakes to put in force in Illinois schedules violative of the Passenger Fare law. (Rec. 23.)

(12) Notwithstanding these laws, as to the rights of plaintiff, are unconstitutional, public officials will institute innumerable prosecutions, unless restrained, and the plaintiff will be intimidated and prevented from testing, in good faith, the validity of the Illinois laws. (Rec. 24.)

(13) The State Public Utilities Commission will refuse to recognize tariffs fixing fares contrary to the Illinois Passenger Fare statute. (Rec. 25.)

(14) Plaintiff will be subjected to a multiplicity of suits, and will suffer irreparable injury, unless the defendants are restrained from enforcing the Illinois laws. (Rec. 25.)

By reason of the facts, plaintiff avers: (a) the Illinois Passenger Fare statute is void, because in conflict with the report and orders of the Interstate Commerce Commission, in violation of commerce clause of the Federal Constitution, and in violation of the Interstate Commerce Act: (b) the Illinois passenger fare statute and the penalty provisions of the State Public Utilities Act

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are void because of their enormous penalties, and because th violate the Fourteenth Amendment to the Federal Constitutio (Rec. 25, 26.)

Plaintiff prays that the Illinois Passenger Fare law and t penalty provisions of the State Public Utilities law may be d clared to be unconstitutional and void, and that the defendan may be enjoined from proceeding to enforce the provisions those laws and to prosecute the plaintiff thereunder. (Rec. 26-30

Application for Preliminary Injunction and Order Making Unit States and Interstate Commerce Commission Parties.

Plaintiff made application for a preliminary injunction, a on December 11, 1916, the court made the following order:

> "This cause came on to be heard upon the motion of t plaintiff for an interlocutory injunction, and it appearing the court upon the face of the bill that the United States America and the Interstate Commerce Commission are nece sary parties to this proceeding; on motion of defendants is ordered that the United States of America and the Inte state Commerce Commission be made parties to this proce ing, and that the process of subpoena issue against them, provided by law." (Rec. 60.)

The United States and the Interstate Commerce Commissi were duly served by subpoena, by certified copy of the order ma ing them parties, and by copy of the original bill. Service of ea of these documents was made upon the United States by delive ing a copy thereof to the Attorney General of the United State and upon the Interstate Commerce Commission by serving t secretary of the commission. (Rec. 60-63.)

Plaintiff, on December 15, 1916, filed a supplemental bill su stituting as defendants the new public officials elected at the N vember election, 1916, to take the place of certain defendants the original bill whose terms of office expired subsequent to t filing of the original bill. (Rec. 65.)

Answer of Defendants and Their Claim for Cross Relief.

Defendants to the original and supplemental bills, filed

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ecember 18, 1916, their answer and claim for cross-relief. (Rec. 6).

Plaintiff's allegations as to the Illinois statutes, the entry of e orders by the Interstate Commerce Commission, and the in-tion of the Illinois authorities to enforce the State laws are dmitted. Defendants allege that the final order of the Interstate ommerce Commission, entered on October 17, 1916, is not based pon the original complaint before the Commission, and goes be-ond the matters complained of to the Commission.

It is admitted that the State Public Utilities Commission and e Attorney General of Illinois intervened in the proceedings efore the Interstate Commerce Commission, but it is asserted at their participation in these proceedings did not and could not n any awy bind the State of Illinois in any matter relating to e validity or enforcement of its own laws.

The answer further alleges the grounds upon which it is laimed that the order of the Interstate Commerce Commission s ineffective for the purpose of superseding the State statutes. mong the grounds specified are: (a) the vagueness and indefi-iteness of the order; (b) the lack of power in the Commission o make an order which, in the guise of removing discrimination etween these specified localities, will operate to strike down all ntrastate regulation in Illinois; (c) the arbitrary character of e proceedings before the Commission, the claim that the findings f the Commission were against the indisputable character of the vidence, and the entire absence of substantial evidence as shown y the reports of the Commission to sustain the claim of alleged iscrimination; and (d) the claim that the Interstate Commerce ommission had undertaken to characterie as discrimination mething which, as to certain portions of the order, does not mount to unjust, unreasonable, and undue discrimination, as hose terms are used in the Interstate Commerce Act.

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The answer further asserts, in substance, that the plaintiff ha undertaken to apply the order to all interstate rates in Illinois, an to rates which, under any conceivable interpretation of the ambigu ous language of the Commission, are not covered by the report and order of the Commission.

It is specifically asserted in the answer that the plaintiff ha no standing in a court of equity, for the reason that the order o the Commission is so vague, indefinite, general, and uncertain i its terms, that it is incapable of enforcement against the plaintiff if the plaintiff should, in good faith, resist its enforcement, an that the plaintiff is therefore under no compulsion to compl with it.

Defendants, following the practice specified in the equity rules ask that their answer to the original bill be taken as a cross-bil or counterclaim against the United States and the Interstate Com merce Commission and that the order of the Commission be ad judged to be void as affecting the rights of the defendants t enforce the laws of Illinois. (Rec. 76-85.)

Answer of the Interstate Commerce Commission.

The Interstate Commerce Commission, on January 2, 1917 without limiting its appearance, (Rec. 95) answered: (1) The court is without jurisdiction to set aside, annul, or enjoin, in whole or in part, the order of the Commission, because it was entered in a proceeding before the Commission instituted and concluded upon the petition of the Business Men's League of St. Louis, a Missouri corporation, whose residence is in the Eastern District of Missouri; that by the Act of October 22, 1913, (38 Stat. 219) it is provided:

> "The venue of any suit hereafter brought to enforce suspend, or set aside, in whole or in part, any order of th Interstate Commerce Commission shall be in the judicial dis trict wherein is the residence of the party or any of the par ties upon whose petition the order was made, except tha where the order does not relate to transportation or is no

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made upon the petition of any party the venue shall be in the district where the matter complained of in the petition before the commission arises, and except that where the order does not relate either to transportation or to a matter so complained of before the commission, the matter covered by the order shall be deemed to arise in the district where one of the petitioners in court has either its principal office or its principal operating office."

That there was no petitioner before the Commission, who ...d or who now resides within the jurisdiction of the Court. ...one of the cross-complainants has a vested interest in any ...ffected by the Commission's order, and therefore cross-...plainants have no right to receive any relief against the order ...he Commission. (3) The order did not go beyond the matters ...plained of by the complainant before the Commission. (4) The ...er of the Commission was made in a proceeding regularly ...ituted and concluded, the parties to said proceeding were ...in the jurisdiction of the Commission, the subject matter of ...complaint was within the scope of the administrative powers ...he Commssion, the findings and conclusions of fact in the ...rt and orders of the Commission were supported by substan-...evidence, the proceedings were in conformity to law, and each ...ng is final and conclusive. (5) Cross-bill does not show that ...order of the commission violates any rights guaranteed to ...s-complainants by the Constitution of the United States. (6) ...respondent denies every allegation in the cross-bill not ad-...ed and makes the reports and orders of the Commission a part ...s answer. (Rec. 95-97.)

There is no objection to the method of service upon the Inter-... Commission, no claim of improper venue, based upon Sec-... 51 of the Judicial Code (36 Stat. 1101) providing that a ...dant must be sued in the district of which he is an inhabitant, ...t in cases where the jurisdiction is founded solely on diver-... of citizenship, and no challenge as to jurisdiction or venue, ... the one founded on the provision of the Act of October 22,

1913, abolishing the Commerce Court. Having made this special and limited objection to the jurisdiction of the Court, the Commission made answer on the merits to all of the averments of the cross-complaint.

Answer of the United States.

The United States, on January 3, 1917, under a special appearance, filed its answer, and moved to dismiss both bill and cross-bill upon the grounds: (1) The bill is essentially a suit to enforce the order of the Interstate Commerce Commission. (2) The cross-bill is essentially a suit to suspend or set aside, in whole or in part of the order of the Commission. (3) The answer then quotes the provisions of the Act of October 22, 1913 (38 Stat. 219) which is set out *supra* in connection with the answer of the Interstate Commerce Commission. (p. 10). (4) The order of the Commission was entered in a proceeding commenced and concluded upon the petition of the Business Men's League of St. Louis. (5) "Business Men's League" is a Missouri corporation whose residence is in St. Louis in the Eastern District of Missouri. (6) There was no petitioner in the proceedings before the Interstate Commerce Commission, who resided in or now resides within the Northern District of Illinois. (7) As plaintiff's suit is based on the order of the Commission, it is a suit to enforce that order, and the proper venue is in the United States District Court for the Eastern District of Missouri. (8) As defendants, by their cross-bill, are undertaking to suspend or set aside, in whole or in part, the order of the Commission, the proper venue of that proceeding is in the Eastern District of Missouri. (Rec. 101, 102.)

Hearing on Objections to Venue, and Order of Dismissal.

The motion of the Interstate Commerce Commission to dismiss was heard upon the facts as stated in the pleadings, and in the orders and reports of the Commission made part thereof. Upon the hearing of the motion of the United States, to dismiss,

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here was received in evidence, as the result of offers by both parties, the record of the proceedings before the Interstate Commerce Commission. (Rec. 226.) From that record it appears that the Keokuk Industrial Association did not complain of discrimination against Keokuk and in favor of Illinois points. It merely asserted that any change in rates applicable to St. Louis should be made as to Keokuk, so as to prevent discrimination in favor of St. Louis and against Keokuk. (Rec. 385.) Its contention before the commission is stated in the record as follows:

> "Keokuk is desirous, first, of being kept on a parity with St. Louis. She is desirous, if a reduction is made to St. Louis, that a similar reduction be made to Keokuk; she is desirous of removing the discrimination alleged by reason of advances on interstate traffic without advances on intrastate traffic in the State of Illinois, providing that discrimination can be removed by placing Keokuk on the Illinois basis. We do not approve of the removal of the discrimination by the raising of the Illinois State rates, but would prefer the present situation as it is." (Rec. 390-391.)

On January 6, 1917, an order was made striking out certain portions of defendants' answer and cross-bill. (Rec. 110-117.) The effect of the order was to dismiss the suit, both bill and cross-bill, as to the United States and the Interstate Commerce Commission, for want of jurisdiction. To reverse that order, this cross-appeal was taken and is now prosecuted. (Rec. 229-233.)

Specification of Errors.

(1) The District Court should not have dismissed the suit as to the Interstate Commerce Commission.

(a) Questions of venue aside, the Interstate Commerce Commission was a proper party. Plaintiff's case was founded on its order. Any relief granted to plaintiff necessarily affected a matter as to which the Commission is clothed with power and charged with responsibility.

(b) The Interstate Commerce Commission is a body corporate with legal capacity to be a party plaintiff or defendant in the Federal Court.

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(c) The venue provision of the Act abolishing the Commerce Court (38 Stat. 219) (*supra* p. 10), so far as it applies to suits brought to suspend or set aside an order of the Commission, refers to the suits specified in section 208 of the Judicial Code (38 Stat. 542, 1149), and by the provision of that section, suits which fall within the description "to suspend or set aside an order of the Commission" are required to be brought against the United States. (36 Stat. 542, 1149.) Those sections have no relation to suits in which the interpretation of an order of the Commission is involved, but in which there is no attempt by one against whom the affirmative command of the Commission is directed, to prevent the enforcement of the order. By section 207 of the Judicial Code, it is expressly provided that the transfer of power to the Commerce Court (restored to the district courts by the Act abolishing the Commerce Court) shall not affect the jurisdiction possessed by any circuit or district court of the United States over cases or proceedings of a kind not within the classes specifically enumerated in that section. This court has interpreted that language to mean that the transfer of a portion of the power of the Circuit (district) Courts to the Commerce Court did not destroy or minimize the general scope of the judicial power possessed by the Circuit (district) Courts, where such power was not embraced within the authority transferred to the Commerce Court (*Proctor & Gamble* v. *U. S.*, 225 U. S., 282, 300.) Manifestly, the Interstate Commerce Commission is a proper party in suits between other litigants, in which rights are dependent upon the interpretation of its order. In view of the ruling in *Proctor & Gamble* v. *U. S.*, *supra*, this appears to be the only method by which one who is collaterally affected by an order of the Commission, but against whom there is no affirmative order, may have an adjudication of the questions affecting him, which arise from the order of the Commission.

(d) There was no affirmative order of the Interstate Com-

merce Commission compelling the doing or abstaining from doing of any act by the defendants to the original bill. In fact, under the contention of the Interstate Commerce Commission in its plea to the jurisdiction, it follows necessarily that if the plaintiff may maintain a suit against the defendants, based upon an order directed against the plaintiff alone, the Commission is a proper party to that proceeding; otherwise, there is a complete breakdown of the fundamental principles of equity, and the rights of the defendants may be prejudiced by an order as to which they may not of right have an interpretation in a proceeding to which the Commission is a party.

(e) The Interstate Commerce Commission, having appeared and challenged the venue under a statute which it was not entitled to invoke, waived the right to object to the venue on other grounds, as that it was not sued in the district whereof it is an inhabitant; and submitted itself to the jurisdiction of the court. This is particularly true in view of Section 212 of the Judicial Code which gives to the Interstate Commerce Commission the right to appear in any suit wherein is involved the validity of its orders. (36 Stat. 543, 1150.)

(f) If we were to consider the Interstate Commerce Commission as protected by the venue provision of the Act abolishing the Commerce Court (*supra*, p. 10), it may not avail itself of the benefit of that section in this proceeding, for the reasons assigned in connection with the dismissal of the suit as to the United States for want of jurisdiction.

(2) The District Court should not have dismissed the suit as to the United States of America.

(a) Questions of venue aside, the United States was a proper party to this suit. The plaintiff was entitled to bring a suit against the United States (Sec. 208 of Judicial Code, 36 Stat. 542, 1149), to set aside the order of the Commission. The defendants, against

whose rights the plaintiff was invoking the order of the Commission, were entitled to bring in the United States, and, under elementary equity principles, make the same attack upon the order invoked by the plaintiff, as it could have made, and this is true even though it should be held the defendants were not entitled, because the order was not directed affirmatively against them, to maintain, under the statute, an independent suit attacking the order.

(b) If we give to the venue provision of the Act abolishing the Commerce Court (*supra*, p. 10), the interpretation placed upon it in the plea of the United States, that plea is insufficient, for the reason that it appears that the order finally made by the Commission was not made upon the petition (as that term is used in the section) of either Business Men's League of St. Louis, complainant before the Commission, or the Keokuk Industrial Association, intervenor before the Commission; but was made upon the motion of the Commission itself, in extension of the original complaint. Suit, therefore, could be brought against the United States to set aside the order, in any district in which the matter complained of before the Commission arose. The alleged discrimination did not "arise" in the Eastern District of Missouri in any sense in which it did not arise in the Northern District of Illinois.

(c) By a correct interpretation of the venue section of the Act abolishing the Commerce Court (*supra*, p. 10), however, the word "party" means party to the case in court, and not party to the proceeding before the Commission. Any other interpretation destroys the meaning of the provision "except that where the order does not relate to transportation or is not made upon the petition of any party, the venue shall be in the district where the matter complained of in the petition before the Commission arises." There could not be a petition before the Commission

without a party before the Commission. So interpreted, the section likewise authorizes suit against the United States in any district in which the matter complained of before the Commission arose, including the Northern District of Illinois.

(d) The supplemental report and order of October 17, 1916, cover matters which were not complained of before the Commission. As to those matters, suits against the United States, under the last clause of the first section of the venue provision of the Act abolishing the Commerce Court (*supra*, 6. 10), could be maintained in the district in which the petitioner in court had its principal office, and this was the Northern District of Illinois.

BRIEF.

I.

The Inter state Commerec Commission and the United States were proper parties.

Putting aside, for the moment, the questions of venue presented, it cannot be denied that the Interstate Commerce Commission and the United States were proper parties to this proceeding.

> "The general rule in equity is that all persons materially interested, either legally or beneficially, in the subject matter of a suit, are to be made parties to it, so that there may be a complete decree, that shall bind all. By this means the Court is enabled to make a complete decree between the parties, to prevent future litigation, by taking away the necessity of a multiplicity of suits, and to make it perfectly certain that no injustice is done, either to the parties before it, or to others who are interested in the subject matter, by a decree which might otherwise be granted upon a partial view only of the real merits. When all the parties are before the Court the whole case may be seen; but it may not where all the conflicting interests are not brought out upon the pleadings by original parties thereto."
>
> Story's Eq. Pl., Sec. 72.

> "It is the constant aim of a court of equity to do complete justice by deciding upon and settling the rights of all persons interested in the subject of the suit, so as to make the performance of the order of the court perfectly safe to those who are compelled to obey it, and to prevent future litigation. For this purpose all persons materially interested in the subject ought generally, either as plaintiffs or defendants, to be made parties to the suit, or ought, by service upon them of a copy of the bill or notice of the decree, to have an opportunity afforded of making themselves active parties in the cause, if they should think fit."
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> 1 Dan. Ch. Pl. & Pr., (6 Amer. Ed.) Star Page 190.

United States equity rule 37 provides:

> "Any person may at any time be made a party if his presence is necessary or proper to a complete determination of the cause. Persons having a united interest must be joined on the same side as plaintiffs or defendants, but when any one refuses to join, he may for such reason be made a defendant."

United States equity rule 39 provides:

"In all cases where it shall appear to the Court that persons who might otherwise be deemed proper parties to the suit, cannot be made parties by reason of their being out of the jurisdiction of the Court, or incapable otherwise of being made parties, or because their joinder would oust the jurisdiction of the Court as to the parties before the Court, the Court may, in its discretion, proceed in the cause without making such persons parties; and in such cases the decree shall be without prejudice to the rights of the absent parties."

As to who are proper parties, see:

Garzot v. *DeRubio,* 209 U. S.283, 297;
Minnesota v. *Northern Securities Co.,* 184 U. S. 199, 235;
California v. *Southern Pac. Co.,* 157 U. S. 229, 249-251;
Shields v. *Barrow,* 17 How. 130, 140;
Hipp v. *Babin,* 19 How. 271, 278;
Railroad Co. v. *Orr,* 18 Wall. 471, 473;
Bogart v. *Southern Pacific Ry. Co.,* 228 U. S. 137, 147;
Swan Land and Cattle Co. v. *Frank,* 148 U. S. 603, 611.

The endless confusion and interminable multiplicity of suits which would result from a decree in favor of the plaintiff in a suit like the one at bar, without the presence of either the Interstate Commerce Commission or the United States as party to the suit, are manifest from a consideration of the statutes relative to the enforcement and setting aside of orders of the Commission.

Section 16 of the Interstate Commerce Act, as amended June 18, 1910, provides that if a carrier does not obey an order of the Commission other than for the payment of money, the Interstate Commerce Commission, or any party injured, or the United States, may apply for the enforcement of the order. (36 Stat. 554.)

Section 208 of the Judicial Code provides that suits to suspend or set aside an order of the Commission shall be brought against the United States. (36 Stat. 1149.)

Section 211 of the Judicial Code provides:

"All cases and proceedings in the Commerce (district) Court which but for this chapter would be brought by or against Interstate Commerce Commission shall be brought by or against the United States and the United States may intervene in any cause or proceeding in the Commerce (district)

Court whenever, though it has not been made a party, publ
interest are involved." (36 Stat. 1150.)

If a carrier is entitled to maintain a suit upon the theory
the one at bar, then in case the order of the Interstate Commer
Commission invoked is a valid one, the Court would proceed
grant relief to the plaintiff upon an interpretation of the order
to which neither the Interstate Commerce Commission nor t
United States was heard. The United States or the Commissi
conceiving that a different interpretation should be placed up
the order, might institute in a different jurisdiction a suit to
force its interpretation of the order. The State officers wo
proceed in the performance of their duty, adopting the interp
tation of the order made in the suit to which they were parti
The result might be that a large number of suits for penalt
prosecuted through the State courts and taken finally to the
preme Court of the United States would be necessary in order
get an interpretation of the order, which, in the end, would be c
clusive upon all parties. In fact, the conclusion appears to
irresistible that if it is impossible to make the United States
the Interstate Commerce Commission, or one of them, parties t
suit like the one at bar, the plaintiff's bill must be dismissed, un
fundamental equity rules, for want of an indispensible party.

In *Gogart* v. *Southern Pac. Ry. Co., supra,* Mr. Justice
(p. 147) said:

"It remains true, notwithstanding the Act of Congr
and the 47th rule, that the Circuit Court can make no dec
affecting the rights of an absent person, and can make no
cree between the parties before it, which so far involves
depends upon the rights of an absent person, that compl
and final justice cannot be done between the parties to the
without affecting those rights. To use the language of
Court in *Elmendorf* v. *Taylor,* 10 Wheat. 167: 'If the c
may be completely decided as between the litigant parties,
circumstance that an interest exists in some other per
whom the process of the court cannot reach—as if such p
be a resident of another state,—ought not to prevent a dec

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upon its merits.' But if the case cannot be thus completely decided, the court should make no decree."

II.

The plea and answer of the Interstate Commerce Commission did not entitle it to a dismissal.

After the entry of the order making it a defendant in the case, the Interstate Commerce Commission was given notice of the proceedings. It appeared and filed its plea and answer. (Rec. 95-97.) This pleading has been analyzed in the statement of the case (*supra*, p. 10.) It is an answer on the merits, with the exception of the objection to the jurisdiction based upon the venue provision of the Act abolishing the Commerce Court. That provision has no application to suits like the one at bar. The original bill in this case was not one brought by a carrier to set aside the order of the Commission; it was brought by a carrier to invoke the protection of an order of the Commission in staying the hands of State officers in the execution of State laws; and the Commission was made a party so that it might be bound by the interpretation placed upon its order in a suit in which the order was the foundation of plaintiff's claim.

Venue of suits against Interstate Commerce Commission.

The Interstate Commerce Commission is "a body corporate with legal capacity to be a party plaintiff or *defendant* in the Federal Courts." *Texas & P. R. Co.* v. *I. C. C.*, 162 U. S. 197, 204.

Section 51 of the Judicial Code provides:

> "* * * Except as provided in the six succeeding sections, no civil suit shall be brought in any district court against any person by any original process or proceeding in any other district than that whereof he is an inhabitant; but where the jurisdiction is founded only on the fact that the action is between citizens of different states, suit shall be brought only in the district of the residence of either the plaintiff or the defendant."

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Within the meaning of the foregoing section, the Interstate Commerce Commission is an inhabitant of the District of Columbia.

In *Butterworth, Commr. of Patents,* v. *Hill,* 114 U. S. 128, 132, this Court considered the application of the foregoing section to suits against the Commissioner of Patents, and (p. 132) said:

> "The patent office is in the Department of the Interior, which is one of the executive departments of the government at the seat of government in the District of Columbia. The Commissioner of Patents is by law located in the patent office. His official residence is therefore at Washington, in the District of Columbia."

Exemption in Section 51 of Judicial Code is a personal privilege which may be waived.

In *Butterworth, Comr., etc.,* v. *Hill, supra,* the Court (p. 133) said:

> "The Act of Congress exempts a defendant from suit in any district of which he is not an inhabitant, or in which he is not found at the time of the service of the writ. It is an exemption which he may waive, but unless waived he need not answer and will not be bound by anything which may be done against him in his absence."
>
> *Kreigh* v. *Westinghouse, Church, Kerr & Co.,* 214 U. S. 249, 252, 253;
>
> *In re Moore,* 209 U. S. 490, 501-508;
>
> *Western Loan & Savings Co.* v. *Butte & Cons. Min. Co.* 210 U. S. 368.

In *Kreigh* v. *Westinghouse, C., K. & Co.,* this Court (pp. 252, 253) said:

> "In that state of the record the defect as to the jurisdiction, being simply as to the district to which the suit was removed, the parties being citizens of different states, the objection to the jurisdiction might be, and in our opinion, was waived by making up the issue on the merits without objection as to the jurisdiction of the court. It is unnecessary to enlarge upon this feature of the case, as it is controlled by the recent cases of *In re Moore,* 209 U. S. 490; *Western Loan & Savings Co.* v. *Butte & B. Consolidated Mining Co.,* 210 U. S. 368."

The Interstate Commerce Commission waived the right to object under Section 51 of the Judicial Code that it was not sued in the district whereof it is an inhabitant.

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As we have pointed out above, the sole objection to venue or isdiction made by the Interstate Commerce Commission was one based on the venue provision of the Act abolishing the mmerce Court, and proceeded upon the theory that, with respect the order in controversy, the Commission could be sued in the stern District of Missouri only. It is an elementary practice e that limiting a plea of personal privilege to one ground waives right to object on other grounds. *Western Loan & Sav. Co.* v. *tte & B. Cos. Mi. Co., supra.*

In the case last cited, Mr. Justice Day, delivering the opinion the Court, page 370, referred with approval to the opinion of rcuit Judge Hunt in which he held that "inasmuch as the de-rrer was interposed upon jurisdictional and other grounds, d was not confined to the jurisdiction over the person alone, but ached the merits of the action, the case being one within the gen-al jurisdiction of the Court, although instituted in the wrong strict, the defendant had waived its personal privilege not to sued in the Montana district, and had submitted to the juris-ction," citing *Interior Constr. & Improv. Co.* v. *Gibney,* 160 S. 217; *In Re Keasbey & M. Co.,* 160 U. S. 221; *Ex parte Schol-berger,* 96 U. S., 369; *Central Trust Co.* v. *McGeorge,* 151 U. S., 9; *St. Louis & S. F. R. Co.* v. *McBride,* 141 U. S., 127; *Lowry* v. *le, Mantel & Grate Ass'n,* 98 Fedd., 817; *Texas & P. R. Co.* v. *unders,* 151 U. S., 105.

Of course, under Equity Rule 29, the Interstate Commerce ommission was entitled to include in its answer its objections to e jurisdiction, but, having proceeded and answered generally, waived, under the principle above stated, all objections to venue jurisdiction, except the one specifically raised in its answer.

The order of dismissal as to the Commission, therefore, was roneous, unless its objection to the venue based upon the provis-n of the Act abolishing the Commerce Court is well-founded.

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The venue provision of the Act abolishing the Commerce Court does not cover suits in which the Interstate Commerce Commission is a proper defendant.

In order to interpret this venue provision of the Act abolishing the Commerce Court, and to determine with accuracy the classes of suits to which it is applicable, it becomes necessary to consider this provision in its relation to other sections of the Interstate Commerce Act, the Judcial Code, the Act creating the Commerce Court and the Act abolishing it. In view of the necessity of having those statutory provisions immediately in mind, we reproduce theme here.

The first section of the Act of June 18, 1910, (36 Stat. 539, Ch. 308), now Section 207 of the Judiciary Act of March 3, 1911, (36 Stat. 1148) provides:

> "The Commerce Court shall have the jurisdiction possessed by Circuit Courts of the United States and the judges thereof immediately prior to June 19, 1910, over all cases of the following kinds: *First*, All cases for the enforcement, otherwise than by adjudication and collection of a forfeiture or penalty or by infliction of criminal punishment, of any order of the Interstate Commerce Commission, other than for the payment of money. *Second.* Cases brought to enjoin, set aside, annul, or suspend, in whole or in part, any order of the Interstate Commerce Commission. * * *"
>
> "Nothing contained in this chapter shall be construed as enlarging the jurisdiction now possessed by the Circuit Courts of the United States or the judges thereof, that is hereby transferred to and vested in the Commerce Court."
>
> "The jurisdiction of the Commerce Court over cases of the foregoing classes shall be exclusive; but this chapter shall not affect the jurisdiction possessed by any Circuit or District Court of the United States over cases or proceedings of a kind not within the above enumerated classes."

The third section of the Act of June 18, 1910, now Section 208 of the Judiciary Act, provides:

> "Suits to enjoin, set aside, annul, or suspend any order of the Interstate Commerce Commission shall be brought in the Commerce Court against the United States. The pendency of such suit shall not of itself stay or suspend the operation of the order of the Interstate Commerce Commission; but the Commerce Court, in its discretion, may restrain or

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suspend, in whole or in part, the operation of the Commission's order pending the final hearing and determination of the suit. * * *"

36 Stat. 1149.

Section 16 of the Interstate Commerce Act, as amended by the

of June 18, 1910, contains the following provisions:

"If any carrier fails or neglects to obey any order of the Commission other than for the payment of money, while the same is in effect, the Interstate Commerce Commission or any party injured thereby, or the United States, by its Attorney General, may apply to the Commerce Court for the enforcement of such order."

36 Stat. 555.

Section 211 of the Judiciary Act provides:

"All cases and proceedings in the Commerce Court which but for this chapter (chapter 9 of the Judiciary Act) would be brought by or against the Interstate Commerce Commission, shall be brought by or against the United States, and the United States may intervene in any case or proceeding in the Commerce Court, whenever, though it has not been made a party, public interests are involved."

36 Stat. 1150.

The Deficiencies Appropriation Act of October 22, 1913, (Ch.

) provides:

"* * * The Commerce Court, * * * is abolished from and after December 31, 1913, *and the jurisdiction vested in said Commerce Court by said Act* is transferred to and vested in the several District Courts of the United States, and all acts or parts of acts, in so far as they relate to the establishment of the Commerce Court, are repealed.

"* * * The venue of any suit hereafter brought to enforce, suspend, or set aside, in whole or in part, any order of the Interstate Commerce Commission, shall be in the judicial district wherein is the residence of the party or any of the parties upon whose petition the order is made, except that where the order does not relate to transportation or is not made upon the petition of any party, the venue shall be in the district where the matter complained of in the petition before the Commission arises, and except that where the order does not relate either to transportation or to a matter so complained of before the Commission, the matter covered by the order shall be deemed to arise in the district where one of the petitioners in court has either its principal office of its principal operating office. * * *"

"The procedure in the District Court *in respect to cases of which jurisdiction is conferred upon them by this Act* shall be

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the same as that heretofore prevailing in the Commerce Court. * * * ”

38 Stats. 219.

Reading these sections in their relation to each other, it is manifest, therefore, that the suits to enforce, suspend, or set aside orders of the Interstate Commerce Commission, mentioned in the venue provision of the Act abolishing the Commerce Court, refer to and include only the suits as to which jurisdiction was transferred from the Commerce Court to the District Courts; that the suits to enforce, suspend, or set aside orders of the Commission as to which jurisdiction was so transferred, are the suits described in the first and second paragraphs of section 207 of the Judiciary Act; that, as to those suits, it is specifically required by section 208 of the Judiciary Act, that the suits to suspend or set aside orders of the Commission shall be brought against the United States. This venue provision, therefore, has no application to the Interstate Commerce Commission as to suits to set aside orders of the Commission. The objection which the Interstate Commerce Commission was entitled to make was not that it should have been sued in the EasternDistrict of Missouri, but that in a suit brought against it in any jurisdiction, a decree could not be entered against it in which an order of the Commission was suspended or set aside, within the meaning of those words as used in section 207 of the Judiciary Act, and as declared by this Court in *Proctor & Gamble Co.* v. *U. S.*, 225 U. S. 282, 293. The objection based upon the quoted sections necessarily went to the scope of the relief to be granted, and not to the propriety of subjecting the Interstate Commerce Commission to suit in a district different from the one provided in the venue provision of the act abolishing the Commerce Court.

So far as venue is concerned, it is clear, therefore, that the only objection open to the Interstate Commerce Commission was that it had not been sued in the District of Columbia. Not having

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ade this objection, it waived the right to assert its privilege to e sued in the district whereof it is an inhabitant. By answering enerally, it submitted itself to the jurisdiction of the District ourt for the Northern District of Illinois for all purposes that it proper to maintain a suit against it.

While in the prayer of the defendants for cross-relief (Rec. 5), it is asked that the order of the Commission be set aside, evertheless, that portion of the prayer is obviously directed gainst the United States. There is a prayer for general relief, nd, as we shall show by our next proposition, the Court should ave retained the case as to the Interstate Commerce Commission, nd granted such relief against it with reference to the interpre- tion and application of the order, as was permissible. And this s particularly true,if, as we shall contend, the case should have een retained as to the United States.

The meaning of the term, suits "to enforce, suspend or set side" orders of the Commission, in the venue provision of the Act bolishing the Commerce Court.

Having in mind that these are the suits specified in the first nd second paragraphs of Section 207 of the Judiciary Act, we ave no difficulty in defining the class of suits to which those words rs limited in their application. This is done in the opinion of Chief Justice White in *Proctor & Gamble Co.* v. *U. S., supra.* On ages 293-294 of the opinion, he said:

> "Giving to these words their natural significance, we think it follows that they confer jurisdiction only to entertain complaints as to affirmative orders of the Commission; that is, they give the Court the right to take cognizance when properly made of complaints concerning the legality of orders rendered by the Commission and confer power to relieve parties in whole or in part from the duty of obedience to orders which are found to be illegal. No resort to exposition can add to the cogency with which the conclusion stated is compelled by the plain meaning of the words themselves. But if it be conceded for the sake of argument that the language of the provision is ambiguous a consideration of the context of the Act

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will at once clarify the subject. Thus, the first subdivision provides for the enforcement of orders, that is, the compelling of the doing or abstaining from doing of acts embraced by a previous affirmative command of the Commission, and the second (the one with which we are concerned) dealing with the same subject from a reverse point of view, provides for the contingency of a complaint made to the Court by one seeking to prevent the enforcement of orders of the Commission such as are contemplated by the first paragraph. In other words, by the co-operation of the two paragraphs, authority is given on the one hand, to enforce compliance with the orders of the Commission, if lawful, and, on the other hand, power is conferred to stay the enforcement of an illegal order."

The affirmative orders which the Commission has power to make, mentioned by Chief Justice White, in his opinion, are the orders specified in Sections 15 and 16 of the Interstate Commerce Act. (36 Stat. 551-555.) It is obvious, from a reading of these sections, that these affirmative orders are orders directed against a carrier or carriers. In Section 15, the Commission is given power, after having found that a rate is unreasonable or discriminatory or otherwise unlawful, "to make an order that the carrier or carriers shall cease and desist from such violations." That section also provides:

> "Whenever the carrier or carriers, in obedience to such order of the Commission or otherwise, in respect to joint rates, fares, or charges, shall fail to agree among themselves upon the apportionment or division thereof, the Commission may, after hearing, make a supplemental order prescribing the just and reasonable proportion of such joint rate of each carrier party thereof."

There are further provisions in Section 15 for orders against carriers.

In Section 16, it is provided:

> "It shall be the duty of every common carrier, its agents and employees, to observe and comply with such order so long as it shall remain in effect."

And in that section penalties are provided for carriers or their officers, who fail or neglect to obey the orders of the Commission.

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In Section 16, after authorizing the institution of suits to nforce orders of the Commission, it is provided:

> "If, after hearing, that Court determines that the order was regularly made and duly served, and that the carrier is in disobedience of the same, the Court shall enforce obedience to such order by a writ of injunction or other proper process, mandatory or otherwise, to restrain such carrier, its officers, agents, or representatives, from further disobedience of such order, or to enjoin upon it or them obedience to the same."

Equity jurisdiction of the district courts not destroyed as to uits which do not fall within the correct meaning of the terms suspend" or "set aside."

In *Proctor & Gamble* v. *U. S., supra,* Chief Justice White re-erred to the last two paragraphs of Section 207 of the Judiciary ct (*supra,* p. 26), and laying particular stress upon the provision at transfer of certain jurisdiction to the Commerce Court "shall ot affect the jurisdiction now possessed by any Circuit or District ourt of the United States over cases or proceedings of a kind ot within the above enumerated classes," said (p. 300):

> "Thus the two provisos again serving to make clear the legislative intent that the creation of a new body to exercise a portion of the existing judicial power should not in any way enlarge the power as existing *or be implied as destroying or minimizing the general scope of the judicial power possessed by the Circuit Courts where such power was not embraced within the authority transferred to the new body.*"

Here is a clear recognition of a class of suits in which orders f the Commission are before the court for interpretation and pplication as affecting the rights of parties upon whom they perate indirectly—a class of cases entirely different from those equired to be brought against the United States, in which it is ught to set aside affirmative orders of the Commission, and dif-rent from the cases brought against carriers to compel them to ey the commands of the Commission.

A suit involving the interpretation of an order of the Commis-on is not necessarily a suit to set it aside.

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As pointed out above, suits to set aside the orders of the Commission are suits attacking affirmative orders of the Commission, the effect of which is to stay the hand of the government in the enforcement of the criminal provisions of the Act. Those suits are required to be brought against the United States. However, the Interstate Commerce Commission, by Section 212 of the Judiciary Act, is given the right to appear as party in any suit in which is involved the validity of its orders.

It is certainly a highly technical construction of the provisions of the Interstate Commerce Act and the Judiciary Act, which would leave the Interstate Commerce Commission in this suit, in any other position from that in which it would have been placed if it had appeared valuntarily and subjected itself to the jurisdiction o f the Court. It had the right to do this, and if it had appeared and subjected itself to the jurisdiction of the Court, there can be no doubt of the power of the Court to have bound it, so far as its acts are concerned, by the interpretation placed upon its order in this case.

Our position, we think, is emphasied by the contention of the Commission in its plea (Rec. 96) that the cross-petitioners may not assail the order of the Commission, for the reason that they have no interest in the rates affected, and therefore are entitled to no affirmative relief. If this position is correct, then we have a situation in which the Court might enjoin the State officers from enforcing the laws of their State, and yet the State would have no right to compel an interpretation of the order in litigation which it controlled, against the party under whose compulsion the State laws were set aside.

It does not modify the force of this suggestion to say a suit might be brought by the United States at the direction of the Commission or by a party in interest to enforce the order. The opportunity to intervene would be contingent upon the bringing of such suit.

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The position of intervenors under Equity Rule 37 is that "the tervention shall be in subordination to, and in recognition of, the riority of the main proceeding."

III.

Motion of the United States to dismiss for want of jurisdiction ould have been overruled.

This being a suit in which the plaintiff asserted an order of e Interstate Commerce Commission as the basis for relief, the efendants, in order that there might be a complete decree between ll parties in interest, and that future litigation might be prevented nd multiplicity of suits avoided, were entitled to have the United tates made party to the suit, and to make the same kind of an ttack upon the order of the Commission which the plaintiff carier could have made if it had brought suit against the United tates to set aside the order. This is nothing more than an appliation of one of the most fundamental rules of equity.

The test is—Has the United States by its plea to the jurisdicion shown that a suit to set aside this order could not have been aintained against it by the carrier in the Northern District of llinois? The answer to this question nvolves: (1) a further onsderation of the venue section of the Act to regulate commerce, nvoked in the plea: (2) an analysis of the proceedings before he Interstate Commerce Commission in their relation to the order inally entered by the Commission; (3) an examination of the plea f the United States to the jurisdiction, in the light of the statute nd the proceedings before the Commission.

Portions of Venue Section to be Considered.

The portions of the venue section to be considered are as follows:

> "* * * The venue of any suit hereafter brought to enforce, suspend, or set aside, in whole or in part, any order of the Interstate Commerce Commission, shall be in the judicial district wherein is the residence of the party or any of the

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parties upon whose petition the order was made, except that where the order does not relate to transportation or is not made upon the petition of any party, the venue shall be in the district where the matter complained of in the petition before the Commission arises, and except that where the order does not relate either to transportation or to a matter so complained of before the Commission, the matter covered by the order shall be deemed to arise in the district where one of the petitioners in court has either its principal office or its principal operating office. * * *

"All cases pending in the Commerce Court at the date of the passage of this act shall be deemed pending in and be transferred forthwith to said district courts, except cases which many previously have been submitted to that court for final decree, and the latter be transferred to the district courts if not decided by the Commerce Court before December 1, 1913, and all cases wherein injunctions or other orders or decrees, mandatory or otherwise, have been directed or entered prior to the abolition of the said court, shall be transferred forthwith to said district courts, which shall have jurisdiction to proceed therewith and to enforce said injunctions, orders, or decrees. Each of said cases and all the records, papers, and proceedings shall be transferred to the district courts wherein it might have been filed at the time it was filed in the Commerce Court if this Act had been in effect; and if it might have been filed in any one of two or more district courts, it shall be transferred to that one of said district courts which may be designated by the petitioner or petitioners in said case, or, upon failure of said petitioner to act in the premises within thirty days after passage of this Act, to such one of said District Courts as may be designated by the judges of the Commerce Court. * * *

"Any case hereafter remanded from the Supreme Court, which, but for the passage of this Act, would have been remanded to the Commerce Court, shall be remanded to a District Court, designated by the Supreme Court, wherein it might have been instituted at the time it was instituted in the Commerce Court if this Act had been in effect, and thereafter such District Court shall take all necessary and proper proceedings in such case in accordance with law and such mandate, order, or decree therein as may by said Supreme Court."

38 Stat. 219.

Meaning of "party" as used in venue section of Act abolishing the Commerce Court.

The plea of the United States is drawn upon the theory that the word "party," as used in this venue section, means, party before the Interstate Commerce Commission. This, we think, is an

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rroneous interpretation of this section. We think the term eans "party to the suit."

The section provides that the venue shall be.

"(a) In the judicial district wherein is the residence of the *party* or any of the parties upon whose petition the order was made, (b) except that where the order does not relate to transportation or it not made upon the petition of any *party* the venue shall be in the district where the matter complained of in the petition before the Commission arises, (c) and except that where the order does not relate either to transportation or to a matter so complained of before the Commission, the matter covered by the order shall be deemed to arise in the district where one of the petitioners in court has either its principal office or its principal operating office." 38 Stat. 219.

Obviously, the word "party" should be given the same meaning in each of the clauses above quoted. Examining clause (b), we find that in cases in which the order is not made upon the petition of any party, the venue shall be in the district *where the matter complained of in the petition before the Commission* arises. Here we have a clear distinction drawn between the party to the law suit and the complainant before the Commission. There could not be a petition before the Commission unless there was a complainant before the Commission, and if the word "party" is interpreted as meaning the complainant before the Commission, clause (b) is rendered meaningless.

The interpretation which we suggest is in harmony with the purpose of the Act.

In Section 16 of the Interstate Commerce Act (36 Stat. 555) it is provided:

"If any carrier fails or neglects to obey any order of the Commission other than for the payment of money while the same is in effect, the Interstate Commerce Commission, or any party injured thereby, or the United States, by its Attorney General, may apply to the Commerce Court for the enforcement of such order."

This gives to a party in interest before the Commission the right to bring suit to enforce the Commission's order. In such a

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case, the proper venue is the residence of such party before the Commission, because the party before the *Commission* is a party to the *suit*. If, however, none of the complainants before the Commission is party to the suit, the proper venue of the suit is in the district where the matter complained of in the petition before the Commission arises.

If this is the correct construction of the section, the order of the Commission involved in this suit was not made upon the petition of any party to the suit. The proper venue, therefore, was in the district where the matter complained of in the petition before the Commission arose.

Construction of clause, "where the matter complained of in the petition before the Commission arises."

The matter complained of in the petition before the Commission arose not only in the Eastern District of Missouri, but in the Southern District of Iowa, and in each of the districts of Illinois. The original complaint before the Commission was that of discrimination against St. Louis and in favor of Chicago, as well as in favor of points in Illinois directly across the Mississippi River from St. Louis. It involved passenger fares from St. Louis to in the Northern District of Illinois, and from those points to St. Louis. The intervening petition of Keokuk presented matters (if it can be said to have presented them at all) involving fares from Keokuk to points in the Northern Districts of Illinois, and from points in that district to Keokuk.

A matter ':'complained of" does not *arise* at the place where somebody complains about it. The matter complained of arises at the place or places where the things are done which form the foundation of the complaint.

And the things forming the foundation of the complaint were done, obviously, in the Northern District of Illinois as well as in the Eastern District of Missouri.

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As to meaning of term "arise," see:

40 Cyc., 49;
Re Bogart, 2 Sawyer, 396, 405;
Rundle v. *D. & R. Canal,* 21 Fed. Cases (No. 12139) p. 10;
Deseret Irrigation Co. v. *McIntyre,* 16 Utah, 398, 403-407;
Bardon v. *Crocker,* 10 Pick, 382, 390;
Foot et al. v. *Edwards,* 9 Fed. Cases (No. 4908) p. 358.

Where there are several facts material to the plaintiff's action, *arising* in different counties, the plaintiff may bring his action in either.

Mayor &c., of London v. *Cole,* 7 T. R. S., 587.

Sec. 42 of the Judicial Codes (36 Stat. 1100) provides: When any offense against the United States is begun in one judicial district and completed in another, it shall be deemed to have been committed in either, and may be dealt with, inquired of, tried, determined or punished in either district, in the same manner as if it had been actually and wholly committed therein.

Sec. 1 of the Act of Feb. 19, 1903 (the Elkins Act as amended June 29, 1906, (32 Stat. 847; 34 Stat. 587) provides:

"Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes in which such violation was committed, or through which the transportation may have been conducted."

The fina lorder of the Commission was not made upon the petition of the Business Men's League of St. Louis.

The difference between orders made upon the petition of a complainant (that is to say, orders in which the complainant is granted the relief sought in the petition) and orders upon the motion of the Commission itself, outside of the scope and in extension of a complaint before the Commission, is shown both by section 15 of the Interstate Commerce Act as amended (36 Stat. 552) and by the venue provision which we have under consideration. Section 15 refers to hearings upon complaints and to hearings "made by the Commission on its own initiative (either in

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extension of any pending complaint or without any complaint whatever)."

Certainly, those portions of the order applicable to Keokuk Iowa, relate to matters which are not mentioned in the origina complaint before the Commission.

The scope of the complaint of the Business Men's Leagu before the Interstate Commerce Commission, as extended by th Commission to Keokuk, is shown by the findings in the origina report of the Commission (Rec. 45-47) and by the order entere by the Commission on July 12, 1916. (Rec. 48-51.) Those find ings and that order, while indefinite, nevertheless, are limited s far as they relate to discrimination, to passenger fares from St Louis to points in Illinois, and from those points to St. Louis, t fares from Keokuk, Iowa, to points in Illinois, and from thos points to Keokuk; to fares from Chicago, Illinois, to points i Illinois, and from those points to Chicago; to fares from point in Illinois directly across the river from Keokuk to other point in Illinois, and from those points to the points directly acros from Keokuk; and to fares from East St. Louis, Illinois, to point in Illinois, and from those points to East St. Louis.

On October 17, 1916, without any further complaint or hea ing, the Commission filed a supplemental report (Rec. 53-54), an setting aside the order of July 12, 1916, entered its final orde From this supplemental report, it appears that the Commissio undertook (indefinitely and ambiguously, to be sure) to mak provisions relative to fares between points in Illinois other tha the points as to which complaint had been made before the Co mission. This supplemental report was based, not upon the r moval of discrimination against St. Louis, but upon the discri ination against "interstate commerce." The diagram used b the Commission in its report (41 I. C. C. 504) shows that the a tempted control of the fare between point "I" and point "X

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had no relation whatever to the alleged discrimination against St. Louis, for it is perfectly obvious that if the fares from St. Louis to any Illinois points are on the basis of 2.4 cents per mile, and the fares from East St. Louis to the same points in Illinois are on the basis of 2.4 cents per mile, the passenger from "X" to either St. Louis or East St. Louis, if he went from "X" to "I" on the intrastate fare, and got off at "I" and purchased another ticket, would be obliged to pay on the same basis to either East St. Louis or St. Louis. There is no possible element of discrimination against St. Louis involved in the thing with which the Commission attempted to deal in the supplemental report. This supplemental report and the final order of the Commission, therefore, are entirely beyond the scope of anything complained of before the Commission. So that, even if we place upon the venue section of the Act abolishing the Commerce Court the interpretation placed upon it in the plea of the United States to the jurisdiction, the plea fails, for the reason that the final order of the Commission was not *made upon* the petition of any party before the Commission.

That portion of the order relating to Keokuk was not made upon the petition of the Keokuk Industrial Association.

We have analyzed the intervening petition of the Keokuk Industrial Association, and have shown what was its contention before the Commission. (*supra,* p. 13.) The Keokuk Industrial Commission sought no relief before the Commission against the Illinois rate. It distinctly disclaimed before the Commission any claim for relief against fares between points in Illinois. The order of the Commission, so far as it related to fares from Keokuk, was not an order based upon the complaint of Keokuk. Manifestly, therefore, in any aspect, that portion of the order relating to fares from Keokuk to Illinois points, and from Illinois points

to Keokuk, was subject to attack in either the Southern District of Iowa or in the Northern District of Illinois.

The plea of the United States to the jurisdiction is insufficient when tested by the rules applicable to such pleadings.

The plea (Rec. 101-2; *supra*, p. 12), after setting out the venue provision of the Act abolishing the Commerce Court, merely recited that the order was made upon the petition of the Business Men's League; that the place of business of the Business Men's League was in the Eastern District of Missouri; and that there was no petitioner, in the proceedings before the Interstate Commerce Commission, who resided in the Northern District of Illinois. The reports and orders of the Interstate Commerce Commission are by reference made a part of the plea. Those reports and orders show that a part of the final order related to matters involving Keokuk, Iowa. Those matters were not included in the complaint of the Business Men's League.

Those reports and orders, destroying to that extent, the averments of the plea show that a part of the order related to matters in which were not complained of by the Business Men's League. There is no averment in the plea as to the residence of the complainant before the Commission, if any, on whose petition the portions of the order relating to Keokuk were made. Nor is there any averment in the plea with reference to the district or districts in which the matters complained of, if any, before the Commission, relating to Keokuk, arose. The reports and orders of the Commission made part of the plea show that the final order of the Commission was not made upon the petition of the Business Men's League, but that the final order was made upon the motion of the Commission itself, and related largely to matters not covered by the complaint of the Business Men's League. There is no averment in the plea as to the district in which those matters arose.

Without invoking any of the more technical rules as to pleadings of this kind, it is sufficient to say that the objection to the jurisdiction must negative every fact from which jurisdiction may be presumed and must negative every means by which jurisdiction might have been acquired. Tested by this rule, the plea of the United States is not sufficient.

Moreover, the uncontroverted facts, as shown by the pleadings and as proved at the hearing on the plea, show that the carrier could have maintained a suit to set aside this order, in the Northern District of Illinois; and, applying the equitable principles which we have invoked, these defendants against whom the order of the Commission was asserted by the plaintiff carrier were entitled to have the United States made party to the suit and to make the same attack on the order as the plaintiff had the right to make.

IV.

The orders of dismissal as to the Interstate Commerce Commission and the United States should be reversed, and that branch of the case sent back to the District Court, in order that there may be an end to this litigation.

Equity Rule 30 dispenses with the necessity for a cross-bill, and provides that "the defendant may, without cross-bill, set out any set-off or counter claim against the plaintiff, which might be the subject of an independent suit in equity against him, and such set-off or counter-claim, so set up, shall have the same effect as a cross-suit, so as to enable the Court to pronounce a final judgment in the same suit both on the original and cross-claims."

Cross-bill by defendant against other defendants.

A cross-bill implies a bill brought by a defendant in a suit against plaintiff in the same suit or against other defendants in the same suit, or against both, touching the matters in question in the original bill.

Story's Eq. Pl. Sec. 389, citing:
Mitford Eq. Pl. by Jeremy, 80, 81;
Cooper Eq. Pl. 85;
1 Montague Eq. Pl. 327;
Veach v. *Rice,* 131 U. S. 293;
Corcoran v. *C. & O. Canal Co.,* 94 U. S. 741.

Decree on cross-bill against co-defendant without relief to plaintiff on original bill.

Where a case is made out between defendants by evidence arising from pleadings and proof between plaintiffs and defendants, a court of equity is bound to make a decree between the defendants. If a defendant asks substantial relief, either as against the complainant or a co-defendant, or a discovery, a cross-bill may be necessary, but the court dispenses with the necessity of the cross-bill, when the whole matter is before it, and the party is not thereby deprived of any possible substantial right by a decree in the existing suit.

In *Vanderveer* v. *Holcomb,* 17 N. J. Eq. 87, 89, the Court said:

> "It is declared by Lord Redesale to be 'a jurisdiction long settled and acted on, and the constant practice of a court of equity.' Where a case is made out between defendants, by evidence arising from the pleadings and proofs between plaintiffs and defendants, a court of equity is not only entitled to make a decree between defendants but is bound to do so. In the language of Lord Eldon, 'the defendant chargeable has a right to insist that he should not be liable to be made a defendant in another suit for another matter, that may be then decided between him and his co-defendant. And the co-defendant may insist that he shall not be obliged to institute another suit for a matter that may be then adjusted between the defendants. And if a court of equity refused so to decree, it would be a good cause of appeal by either defendant. *Chamley* v. *Lord Dunsang,* 2 Sch. & Lef. 710, 718; *Conry* v. *Caulfield,* 2 Ball. & Beat. 255, 273; *Elliott* v. *Pell,* 1 Paige 263."

To the same effect as the opinion of the New Jersey court last above quoted, and citing *Chamley* v. *Lord Dunsang,* is *Roots* v. *Salt Co.,* 27 W. Va. 483.

See, also:

Louis v. *Brown Township,* 109 U. S. 162;
Jones v. *Grant,* 10 Paige (N. Y.) 348;

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Tyson v. *Tyson* 37 N. C. (2 Ired Eq.) 137;
Gibson v. *McCormick,* 10 Gill & J. (Md.) 65, 101;
Thurston v. *Prentiss,* 1 Mich. 193, 198;
Scripps v. *Sweeney,* 160 Mich. 148, 177;
Ingram v. *Smith,* 1 Head (Tenn.) 411.

With reference to relief between co-defendants especial attention is directed to the case of *Henderson* v. *McClure,* 2 McCord Eq. (S. C.) 466, on page 470, where an excellent analysis is given of the leading case of *Chamley* v. *Lord Dunsang, supra,* and a summary of the opinion of Lords Resedale, Eldon and Erkskine.

Relief may be granted on a cross-bill in equity against a co-defendant, although no relief is granted to the plaintiff.

In *Homer* v. *Nitsch,* 103 Md. 498, 507, the Court said:

"This Court has granted relief to one defendant against another in other suits in equity than actions of account and that, too, where no relief was granted to plaintiff. In *Riley* v. *Carter,* 76 Md. 581, the bill was filed by certain creditors to set aside as fraudulent a deed of trust made by their debtor and the debtor having been adjudicated an insolvent, his trustee was made a co-defendant in the suit. He by his answer claimed to be entitled to a decree, avoiding the deed, in his favor under the operation of the insolvent law and this Court upheld his claim holding that '*Relief may be given and decree passed between co-defendants.*' See, also, *Haugh* v. *Maulsby,* 68 Md. 426."

Reversal for failure to entertain cross-bill against co-defendant, although original bill has been dismissed.

In *Holgate* v. *Eaton,* 116 U. S. 42, the judgment in the Supreme Court was as follows:

"The decree of the Circuit Court in the original bill is, therefore, reversed, and the decree in the cross-bill also. The case is remanded to the Circuit Court, with instruction to dismiss the original bill at the costs of the plaintiffs in that bill, and to take such further proceedings in the cross-bill as are not inconsistent with this opinion, and as may be appropriate to enforce the rights of plaintiffs therein."

Circuit Judge Brewer, referring to that case, and commenting upon the order, in *Markell* v. *Kasson,* 31 Fed. 104, 105, said:

"There is, of course, a certain sense in which the cross-bill is a part of the original action; it is auxiliary to the orig-

inal bill. It may be filed to set up new matter, but matter only defensive; and of course in such a case as that, as where the cross-bill simply seeks a discovery, when the original bill goes out, the cross-bill goes with it. But it may be and it was filed in this case seeking affirmative relief, presenting matter not purely defensive in its nature. A familiar illustration is where a mortgagee files his bill making other mortgagees defendants, and they come in, setting up, by cross-bill, their mortgages, and praying foreclosure of them. In cases of that kind, does the dismissal of the original bill necessarily take the cross-bill out of court? Neither on principle nor authority can such a claim be sustained. The cross-bill is in one sense an independent proceeding. While it is filed in the original action, yet process must be served, or appearance obtained, before there is any issue upon it; and where the cross-bill sets out matter upon which affirmative relief is sought, and in respect to which testimony is taken, and all the expense of that testimony incurred, it would be unjust to permit the complainant in the original bill to take the whole thing out of court. The statutes of limitation might come in before a new bill could be filed; the difficulties of bringing the parties in the original bill into court,—many inconveniences suggest themselves, and the authorities run in that line. Thus Barbour, in his work on Chancery Practice, (2 Barb. 129), says: 'The connection of the matter of the cross-bill, be it *per se* legal or equitable, with the subject-matter of the original bill, gives the court jurisdiction of the cross-bill, of which it cannot be ousted by the dismissal of the original bill.' In a recent case in the Supreme Court, *Holgate* v. *Eaton*, 116 U. S. 33, 6 Sup. Ct. Rep. 224, while this question is not discussed, yet the decree of that Court recognizes the propriety of this rule, for it reverses the decree entered by the Circuit Court, and remands the case with instructions to dismiss the original bill, and to proceed to a hearing upon the cross-bill. Of course, that could not be done if the dismissal of the original bill took the cross-bill *ipso facto* out of Court. In *Lowenstein* v. *Glidewell*, 5 Dill, 325, the matter is discussed on principal by Judge Caldwell, of the Federal Court of Arkansas, and his conclusion is in harmony with this view."

In *Callahan* v. *Mercantile Trust Co.*, 188 Mass. 393, 398, it was held that where a defendant in equity files a cross-bill entitling him to affirmative relief, and the original bill is dismissed, the cross-bill may be retained for the purpose of granting relief, as if it were an original bill, citing *Holgate* v. *Eaton*, 116 U. S. 33; *Dawson* v. *Amey*, 13 Stewart (N. J.) 494; *Sigman* v. *Lundy*, 66

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s. 522; *Warrell* v. *Wade,* 17 Iowa 96; Daniel Ch. 5th Ed. 1553, e 3, and cases cited in Story Eq. Pl. Sec. 399, Note (a).

The plaintiff in each of these consolidated cases has been le party to this cross-appeal, and it is proper that the case uld be remanded to the District Court in order that the issues o the Interstate Commerce Commission and the United States y be disposed of, and an end put to this litigation.

Respectfully submitted,

EDWARD J. BRUNDAGE,
Attorney General;

JAMES H. WILKERSON,
GEORGE T. BUCKINGHAM,
Solicitors for Appellants,

State Public Utilities Commission of Illinois, et al. Spring-d, Ill., Aug. 27, 1917.

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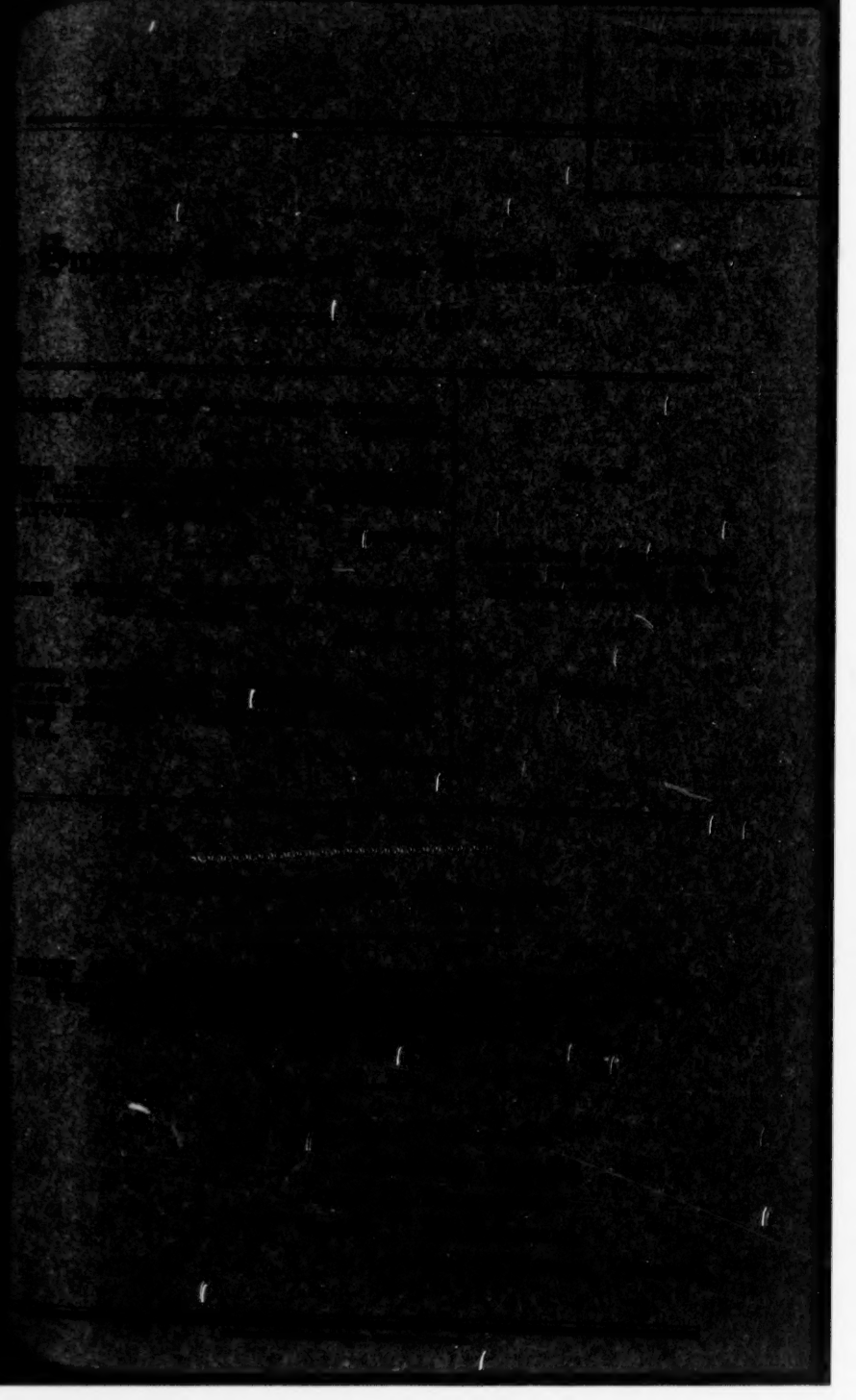
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IN THE

Supreme Court of the United States.

OCTOBER TERM, 1917.

ILLINOIS CENTRAL RAILROAD COMPANY, Appellant, vs. STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, EDWARD J. BRUNDAGE, ATTORNEY GENERAL, et al., Appellees.	No. 416.
STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, et al., Appellants, vs. UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ILLINOIS CENTRAL RAILROAD COMPANY, et al., Appellees.	No. 448.

Appeals from the District Court of the United States for the Northern District of Illinois.

BRIEF FOR APPELLEES IN CASE NO. 416.

ADDITIONAL STATEMENT.

The construction and validity of the order of the Interstate Commerce Commission are involved. It is essential, therefore, to have immediately in mind, and in connected form, the precise facts relative to the pleadings

before the Commission, its reports, and its orders. The reference to the phrase "generally within Illinois," found in the supplemental report of the Commission (Carriers' Brief, p. 8) gives no adequate information as to the real form and scope of the Commission's order and the reports which are expressly made part of it. It is essential, also, to get precisely in mind the facts upon which the Commission acted. They not only throw light upon the real basis for the objection of indefiniteness against this order; but, also, show that the order, as the carriers seek to interpret and apply it, would have been, if actually and definitely so made by the Commission, void because utterly unsupported by the facts before the Commission.

THE COMPLAINT BEFORE THE COMMISSION.

(See Rec., 283-300.)

The petition deals principally with freight rates. Those portions covering the complaint as to passenger fares are substantially as follows:

The members of the Business Men's League and their customers, and the public generally, are passengers between St. Louis and points in the State of Illinois, and the respondent carriers are engaged in interstate commerce between St. Louis and points in Illinois.

Prior to the advance in interstate rates following the *Five Per Cent. Case,* 31 I. C. C., 351, passenger and freight rates between St. Louis and Illinois points were, generally speaking, on the same basis as the intrastate rates *between points similarly situated in Illinois,* and since said advance in interstate rates, the rates for passengers and freight between points in Illinois have not been correspondingly or proportionately advanced.

Prior to the effective date of such advanced interstate

rates, the rates between *St. Louis,* Missouri, and Chicago, (as well as between St. Louis and other points in Illinois,) were the same as the rates between *East St. Louis,* Illinois, and Chicago. The same is true with respect to the rates between *Madison,* Illinois, and Chicago, *Granite City,* Illinois, and Chicago, *Venice,* Illinois, and Chicago, and *Dupo,* Illinois, and Chicago. By reason of said advance in said interstate rates between St. Louis and Illinois points, and the fact that no similar or proportionate advance has been made in the passenger and freight rates between points in Illinois, the result has worked a discrimination on inbound and outbound passenger and freight traffic passing over the carriers' lines between St. Louis and points in Illinois.

The following comparison shows, for illustrative purposes, the present effective passenger fares between St. Louis and certain points in Illinois, and the passenger fares over the same lines between Chicago, Illinois, and the same points in Illinois, and shows the discrimination for similar mileage, against St. Louis, by reason thereof.

COMPARATIVE PASSENGER FARES.

Town in Illinois	Miles From		Fares From		Rate Per Mile From	
	St. Louis	Chicago	St. Louis	Chicago	St. Louis	Chicago
Clinton	146	147	$3.40	$2.94	2.32	2.
McLean	143	141	3.40	2.82	2.37	2.
Villa Grove	145	145	3.79	2.90	2.61	2.
Larchland	179	185	3.77	3.70	2.1	2.
Monticello	141	145	3.65	2.92	2.58	2.

The complaint gives a description of the tariffs containing the interstate rates from St. Louis and the tariffs containing the lower Illinois rates, and states that "each and all of the passenger fares," as well as the class and commodity freight rates *between St. Louis* and each point in Illinois on each line of each respondent is complained of.

By reason of the facts stated, citizens of St. Louis have been subjected to the payment of passenger fares and freight rates which are unjust and unreasonable, in violation of section 1 of the Interstate Commerce Act, and unduly discriminatory and prejudicial, in violation of sections 2, 3, and 4 thereof; and, as a result of said unlawful rates, Illinois and other *competitors* of the City of St. Louis are given an undue advantage *in said competitive territory* in said State of Illinois.

The complaint prays that the carriers may be required to put in force reasonable rates and to make a readjustment of Illinois State rates which will result in St. Louis being freed from unduly discriminatory and prejudicial rates.

THE INTERVENING PETITION OF KEOKUK INDUSTRIAL ASSOCIATION.

(See Rec., 385.)

This petition alleges that Keokuk is in competition with St. Louis; that the cities of Keokuk and St. Louis are quite similarly situated as to the cost of transportation, marketing of products, purchase of raw materials, and the character of service rendered by the transportation companies on traffic and travel to the east and west; that for many years, Keokuk has sought to be placed on a parity with St. Louis; that any change in rates, rules, and practices, *applicable to St. Louis,* should also be made as to Keokuk, or else discrimination will result therefrom.

The position of Keokuk before the Commission is stated in the record as follows (Rec., 391):

> "Keokuk is desirous, first, of being kept on a parity with St. Louis. She is desirous, if a reduction is made to St. Louis that a similar reduction be made to Keokuk; she is desirous of removing the

discrimination alleged by reason of advances on interstate traffic without advances on intrastate traffic in the State of Illinois, providing that discrimination can be removed by placing Keokuk on the Illinois basis. We do not approve of the removal of the discrimination by the raising of the Illinois state rates, but would prefer the present situation to remain."

FACTS BEFORE COMMISSION AS TO ALLEGED DISCRIMINATION IN PASSENGER FARES.

Those facts are found in the record, interwoven with the facts relating to the reasonableness of the interstate fares to St. Louis, and with the questions involving freight rates. The essential ones, and manifestly the only ones, relied upon by the Commission as the basis for its order, are summarized in the report of July 12, 1916. (Rec., 31-47; 41 I. C. C., 13-29.)

The report includes tables showing a comparison of fares between St. Louis and stations in Illinois, and fares between East St. Louis and Granite City and the same points. (Rec., 34, 35.) It (Rec., 38) also contains statements in which fares from St. Louis to Illinois points are compared with those for equal distances from Chicago to Illinois points. Those tables are nothing more than illustrations of the conceded fact, as shown by the rate schedules of the carriers, that fares from St. Louis to Illinois points were on the basis of 2½ cents per mile, while those from Chicago and East St. Louis to Illinois points were on the basis of 2 cents per mile.

Dealing with the facts as to alleged discrimination in favor of Chicago as against St. Louis, the report states (Rec., 37):

"The complainants maintain that the lower state-made fares tend to divert travel to Chicago, *especially when the points in Illinois are about equi-*

distant as between St. Louis and Chicago. (Italics ours.) This is illustrated by the following:

	Route	Distance From		Fares From	
		Chicago	St. Louis	Chicago	St. Louis
Arthur, Ill.	C. & E. I.	164.9	125.1	$3.20	$3.27
Athol, Ill.	C. & A.	155.7	128.2	3.12	3.00
Kenny, Ill.	I. C.	155	139	3.10	3.15
Cerro Gordo	Wabash	160	126	3.22	3.25"

The facts with reference to the *nature* of the alleged discrimination in favor of East St. Louis and against St. Louis are summarized in the report as follows (Rec., 37-38):

> "As a consequence of this disparity in fares, large numbers of passengers from St. Louis to Illinois points purchase tickets from St. Louis to East St. Louis for 25 cents; there they buy tickets from East St. Louis to their destinations in Illinois at the fares whose maximum is fixed at 2 cents a mile by the Illinois legislature. Others cross the river by bridge in street cars or cabs and begin their railroad travel at East St. Louis. Resort to similar means is adopted when the travel is in the reverse direction.
>
> "From East St. Louis to Illinois points the defendants during August, 1914, sold 13,348 tickets, while in the same month of 1915 they sold 21,471 such tickets. From East St. Louis to St. Louis during March, 1914, there were purchased 155 bridge tickets; while during March, 1915, 400 were sold. Granite City has witnessed a like increase in bridge ticket sales. From December, 1913, to August, 1914, the tickets from that city to Chicago averaged from 30 to 50 per month, while for the same period from 1914 to 1915 the sales ran from 175 to 300 per month. This marked increase in ticket sales can be accounted for in no other way than by the desire of the traveling public to take advantage of the lower fares available within Illinois.
>
> "Although the carriers refuse to check baggage on a combination of bridge and railroad tickets, travelers frequently insist thereon and the rebuying of tickets and rechecking at East St. Louis lead to

confusion and many disagreements between passengers and employees of the railways.

"The same service and equipment are provided for the interstate and for the intrastate passenger service; the accommodations accorded to and from Chicago are the same as those from or to either East St. Louis or St. Louis. Nor has there been any relative change in service or equipment since the higher interstate fares have been instituted. The amount paid to the terminal company for carriage into St. Louis, 25 cents from East St. Louis and 35 cents from Granite City, continues the same as before the increase.

"Taking into consideration the fact that passenger fares are almost universally constructed upon a distance basis and that St. Louis is in most instances 3 miles farther from a given point in Illinois than is East St. Louis and that part of this distance is over a long bridge, it is proper that the fares between St. Louis and points in Illinois be higher than the fares between East St. Louis and those same Illinois points by an amount which shall include, in addition to the charge for the extra distance, a reasonable bridge toll. The present disparity between these state and interstate fares has brought it about that passenger tickets which would normally be purchased from or to interstate points such as St. Louis, or Keokuk or Clinton, Iowa, are bought much less frequently, and that in their place tickets are bought at points within the state of Illinois, such as East St. Louis, Granite City, Rock Island, and Fulton; the cost of an interstate journey being materially greater than that of traveling over the same rails, and in the same equipment, for practically the same distance to points within Illinois. We conclude that in the matter of passenger fares St. Louis, Mo., is subjected to undue prejudice in favor of East St. Louis, Granite City, and Madison, as well as Chicago and other points within the state of Illinois, and that Keokuk, Iowa, is likewise subjected to undue prejudice."

So far as the passenger fare branch of the case is concerned, the proceedings before the Commission did not show real injury to the business of St. Louis, growing out

of the fact that passengers defeated the interstate fare to St. Louis by getting off the train at East St. Louis and crossing the river some other way. In fact, any attempt to have done so would have been futile, because an Illinois Central passenger getting off at East St. Louis is about as convenient to the commercial district of St. Louis as the passenger getting off at the 12th Street Station in Chicago is convenient to the commercial district of Chicago. Evidently, the essence of what was shown to the Commission was not that the business of St. Louis was injured, but that the railroads did not collect the full interstate fare. A passenger can get off at East St. Louis and go across to St. Louis on the street car for about one-half of what it costs him to stay on the train.

There was no evidence in the record as to discrimination against Keokuk and in favor of points directly across the river from Keokuk. Reference to the map shows that there are no points directly across the river from Keokuk, which may be characterized as commercial rivals of Keokuk. There are two towns in Hancock County, Illinois, Warsaw and Hamilton, whose names do not appear in the Commission's report, and we are unable to find them mentioned in the record. Fulton and Rock Island, the other Illinois river-points, mentioned in the report, are not directly opposite Keokuk, but are about one hundred miles up the river.

FINDINGS IN REPORT OF COMMISSION.

The report is made a part of the order. (Rec., 56.) The findings, therefore, must be considered as if they were actually included in the order. Upon the question of reasonableness, 2.4 cents per mile is fixed as the maximum for the interstate fares in question. Upon the question of discrimination, the findings are as follows (Rec., 45-47):

(a) "The contemporaneous maintenance of fares between St. Louis, Mo., and points in Illinois, except those for Mississippi River crossings at St. Louis, and of the fares between points in Illinois, the route being wholly intrastate, said points being reached from St. Louis via East St. Louis, Madison, or Granite City, Ill., gives undue and unreasonable preference and advantage to intrastate passenger traffic in the state of Illinois, and to the localities within said state; and subjects interstate passenger traffic between St. Louis, Mo., and Illinois points to undue and unreasonable prejudice and disadvantage.

(b) "The contemporaneous maintenance by the defendants herein between East St. Louis, Madison, Ill., and Granite City, Ill., and Illinois points by intrastate routes, of fares lower than those maintained between St. Louis, Mo., and the same Illinois points via the same routes by more than the present bridge tolls, gives undue and unreasonable preference and advantage to the three Illinois points named above, and to the Illinois intrastate passenger traffic originating or terminating thereat, and subjects St. Louis, Mo., and the passenger traffic between St. Louis, Mo., and Illinois points specified above to undue and unreasonable prejudice and disadvantage; and that the aforesaid preference and advantage to intrastate passenger travel in Illinois and to the Illinois points thereby preferred and advantaged creates and imposes an unreasonable and unlawful burden on interstate passenger traffic.

(c) "The contemporaneous maintenance by the defendants herein between points in Illinois directly opposite Keokuk, Iowa, and other Illinois points by intrastate routes, of fares lower than those maintained between Keokuk, Iowa, and those same Illinois points via the same routes by more than the present bridge toll gives undue and unreasonable preference and advantage to the Illinois points directly opposite Keokuk, and to the Illinois intrastate passenger traffic originating or terminating thereat, and subjects Keokuk, Iowa, and the passenger traffic between Keokuk, Iowa, and said Illinois points to undue and unreasonable prejudice and disadvantage; and that the aforesaid preference and advantage to intrastate passenger travel in Illinois

and to the Illinois points thereby preferred and advantaged creates and imposes an unreasonable and unlawful burden on interstate passenger traffic.

(d) "Passenger fares between St. Louis and Keokuk and points in Illinois are unjustly discriminatory as against St. Louis and Keokuk and unduly preferential in favor of Chicago to the extent that the fares between St. Louis and Keokuk and the aforesaid Illinois points exceed the fares between Chicago and those same Illinois points, where the distances are approximately equal, by more than a reasonable bridge toll.

(e) "Intrastate fares on the reasonably direct lines of defendants herein lying in the territory intermediate to Chicago, Ill., at the north, and St. Louis, Mo., and Keokuk, Iowa, on the south and southwest impose an unlawful burden on interstate commerce in case the basis of such fares per mile is less than the basis per mile for fares for interstate passenger travel between Keokuk, Iowa, and St. Louis, Mo., and Illinois points situate in the general territory first described and reached by reasonably direct routes of defendants herein, bridge tolls excepted."

Through some obvious inadvertence in the use of words finding (a) is very indefinite in meaning. There is no reference, whatever, to its language in the order of July 12, 1916. (Rec., 48-51.) The other findings are carried forward, in terms, into that order, and the carriers are required to cease from the alleged discrimination and to put in force schedules from which the alleged discrimination is eliminated. Examination of the report and order of July 12, 1916, shows that their scope is limited, so far as Illinois intrastate fares are concerned, to fares to and from East St. Louis, fares to and from points directly opposite Keokuk, fares to and from points which are approximately equidistant from Chicago and St. Louis, and fares affecting points in the territory indefinitely characterized as that "intermediate to Chicago, Illinois, on

the north, and St. Louis, Missouri, and Keokuk, Iowa, on the south and southwest," and which are reached by reasonably direct routes of the carriers from Keokuk, Iowa, and St. Louis, Missouri.

Even under the broadest interpretation of which the order of July 12, 1916, is susceptible, it was narrow in scope, and affected a small part of Illinois intrastate fares only. There were no further proceedings before the Commission, except to postpone from time to time the effective date of the order of July 12, 1916, and no additional evidence was heard. (Rec., 52.) No attempt was made, by examination of facts relating to the operation of trains, and by consideration of train schedules, to ascertain the points, if any, at which there was any reasonable probability that passengers, by getting off the train and by using intrastate tickets for a part of the interstate journey, would be able to defeat interstate fares. There was not even the suggestion of a circumstance to show, for example, that St. Louis would be injured because a passenger might purchase a ticket from Springfield to Carlinville at 2 cents per mile, get off the train there, and purchase another ticket to East St. Louis at 2.4 cents per mile. No such showing could have been made, in the nature of things, because if St. Louis and East St. Louis were put on the same basis, the passenger could have bought a ticket to St. Louis at 2.4 cents per mile.

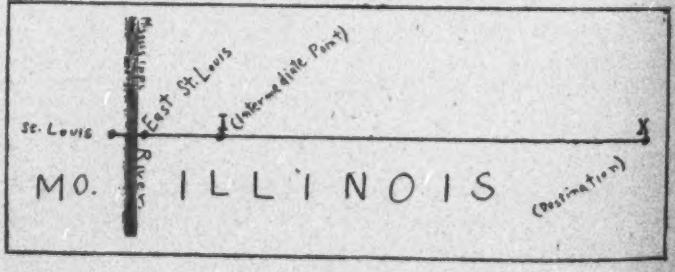
SUPPLEMENTAL REPORT OF OCTOBER 17, 1916.

(See Rec., 53-54.)

Inasmuch as the parts of the final order which are interpreted by the carriers as applying to all intrastate rates are based upon this supplemental report (in fact it is made part of the order), this supplemental report

is of such importance in the case that it is necessary to examine its precise language. This supplemental report is as follows:

> "In our original report in this proceeding it was shown how the lower state fares within Illinois furnished a means whereby passengers could and did defeat the lawfully established interstate fares between St. Louis and Illinois points. This was done by using interstate tickets purchased at interstate fares from St. Louis to an east side point in Illinois and thence continuing the journey to any Illinois destination on a ticket purchased at the lower state fare. See 41 I. C. C., pages 19 and 20.
>
> "We deem it advisable to point out that the interstate fares between St. Louis and Keokuk on the one hand and interior Illinois points on the other, made on a per mile basis of 2.4 cents, would likewise be subject to defeat if the state fares to and from interior Illinois points intermediate to the passenger's ultimate destination be made upon a basis lower than the fares applying between St. Louis or Keokuk and such Illinois destination. It would be necessary merely for the passenger who desired to defeat the interstate fare to shift the intermediate point at which to purchase his state ticket. Thus, as illustrated by the diagram below, the lawful interstate fare could be defeated so long as the state fares between any intermediate point, I, and the ultimate destination, X, are on a basis per mile lower than the fares between St. Louis and X. The burden and discrimination which a lower basis of fares within the state casts upon the interstate commerce would not be removed merely by an increase in the intrastate fares to and from the east bank points.



NOTE.—Assume a fare adjustment, ostensibly complying with the original order herein, on the following basis per mile:

Between St. Louis and East St. Louis, basis bridge toll.

Between St. Louis and I, basis 2.4 cents plus bridge toll.

Between St. Louis and X, basis 2.4 cents plus bridge toll.

Between East St. Louis and I, basis 2.4 cents.

Between East St. Louis and X, basis 2.4 cents.

Between I and X, basis 2 cents.

"And not only this burden, but the direct undue prejudice to St. Louis and Keokuk will also continue if the east side cities while on the face of the published tariff paying fares to and from Illinois points upon the same basis as do St. Louis and Keokuk can in practice defeat such fares by paying lower state fares in the aggregate to and from Illinois destinations, by virtue of such an adjustment of fares.

"It is our conclusion, and we so find, that any contemporaneous adjustments of fares between St. Louis or Keokuk and Illinois points, and generally within Illinois, which would permit the defeat of the St. Louis, Keokuk, East St. Louis, or any other east side city fares by methods such as described above, and which would thereby permit the continuance of the undue prejudice which we have found is suffered by St. Louis and Keokuk, and continue to burden interstate commerce, will not comply with the amended order entered herein."

ORDER OF OCTOBER 17, 1916.

(See Rec., 56-59.)

This order, the protection of which is relied upon by the carriers in this case, expressly makes the reports of July 12, 1916, and October 17, 1916, a part of the order, and sets aside the order of July 12, 1916; prescribes 2.4 cents per mile as the reasonable maximum basis for fares between St. Louis and points in Illinois; and, as to discrimination, requires the carriers to abstain from maintaining:

(1) Fares between St. Louis, Mo., and points in Illinois "higher than the fares contemporaneously exacted for the transportation of passengers between East St. Louis, Ill., and the same Illinois points, by more than a reasonable bridge toll; or fares constructed upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained between Illinois points intermediate between St. Louis, Mo., and points in Illinois, as such fares have been found in said report to be unlawfully discriminatory."

(2) Fares between St. Louis, Mo., and points in Illinois, "the basis of which per mile, bridge tolls excepted, is higher than the basis per mile for fares contemporaneously maintained between Chicago and the same Illinois points, as such fares have been found in said report to be unlawfully discriminatory."

(3) Fares between Keokuk, Iowa, and points in Illinois, higher per mile "than the fares contemporaneously exacted for the transportation of passengers between Illinois points directly opposite to Keokuk and the same Illinois points, by more than a reasonable bridge toll; or fares constructed upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained between Illinois points intermediate between Keokuk, Iowa, and points in Illinois, as such fares have been found in said report to be unlawfully discriminatory."

(4) Fares between Keokuk, Iowa, and points in Illinois, "the basis of which per mile, bridge tolls excepted, is higher than the basis per mile for fares contemporaneously maintained between Chicago and the same Illinois points, as such fares have been found in said report to be unlawfully discriminatory." (Rec., 56-57.)

Then follow, in the ordinary form, the provisions that the carriers put in force schedules which comply with the above requirements. In the last paragraph of the order (Rec., 58) it is provided:

(5) "That said defendants, according as they participate in the transportation, be, and they are hereby notified and required to cease and desist, on or before January 15, 1917, and thereafter to abstain, from the undue preferences and the undue and unreasonable prejudices and disadvantages found in said report to result from the contemporaneous maintenance between Illinois points of passenger rates, which fares, in combination with other fares required or permitted by this order, would produce the discrimination against interstate commerce and the undue preferences in favor of intrastate commerce condemned in the report of the Commission."

It appears, therefore, that provisions (1) and (3) of the final order are based upon findings (b) and (c) of the original report as modified by the indefinite requirements as to "intermediate points" contained in the supplemental report. It also appears that provisions (2) and (4) of the final order, which relate to the alleged discrimination in favor of Chicago, are based upon finding (d) of the original report. There is no specific provision in the final order, based upon finding (e) of the original report, as there was in the order of July 12, 1916; and it is impossible to determine from the indefinite language of provisions (2) and (4) of the final order whether the phrase "as such fares have been found in said report to be unlawfully discriminatory" is intended to embrace finding (e).

Provision (5) of the final order does not refer, in terms, to discrimination against or in favor of specific localities, but refers to the discrimination against interstate commerce and the undue preferences in favor of intrastate commerce "condemned in the report." This probably refers to the last paragraph of the supplemental report, and must stand or fall as that paragraph is to be said to be definite in scope, and as the matters there attempted to be dealt with may be said to be within the control of the Commission.

POINTS AND AUTHORITIES.

I.

THE ORDER OF THE COMMISSION IS TOO INDEFINITE TO SUPERSEDE THE STATE LAWS.

South Dakota Express Cases (dec. June 11, 1917), 37 Sup. Ct. Rep., 656, 660, 661.

Minnesota Rate Cases, 230 U. S., 352, 417.

Louisville & N. R. Co. v. *Garrett*, 231 U. S., 298, 305.

Missouri P. R. Co. v. *Larabee Flour Mills Co.*, 211 U. S., 612, 623.

Reid v. *Colorado*, 187 U. S., 137, 148.

Sinnot v. *Davenport*, 22 How., 227, 243.

Asbell v. *Kansas*, 209 U. S., 251, 257.

Cummings v. *Chicago*, 188 U. S., 410, 428-431.

Montgomery v. *Portland*, 190 U. S., 89, 105-106.

Lake Shore & M. S. R. Co. v. *Ohio*, 165 U. S., 365, 368.

Chicago, M. & St. P. R. Co. v. *State Commission*, 242 U. S., 333, 336-337.

The definite portions may not be severed from the indefinite ones to save the former.

Employers' Liability Cases, 207 U. S., 463, 501.

Trade-Mark Cases, 100 U. S., 82, 99.

United States v. *Ju Toy*, 198 U. S., 253, 262, 263.

Illinois C. R. Co. v. *McKendree*, 203 U. S., 514, 529.

Louisville & N. R. Co. v. *Garrett, supra* (p. 305).

Internatl. Text Book Co. v. *Pigg*, 217 U. S., 91, 113.

McFarland v. *Amer. Sugar Refin. Co.*, 241 U. S., 79, 87.

Muskrat v. *United States*, 219 U. S., 346, 363.

Connelly v. *Union Sewer Pipe Co.*, 184 U. S., 540.

II.

THE ORDER AS INTERPRETED BY THE CARRIERS, IS BEYOND THE POWER OF THE COMMISSION.

Minnesota Rate Cases, supra.

Missouri P. R. Co. v. *Larabee Flour Mills Co., supra.*

Reid v. *Colorado, supra.*

Cummings v. *Chicago, supra.*

Lake Shore & M. S. R. Co. v. *Ohio, supra.*

Montgomery v. *Portland, supra.*

Shreveport Case, 234 U. S., 342, 357.

Chicago, M. & St. P. R. Co. v. *State Commission, supra.*

South Dakota Express Cases, supra.

III.

THERE IS NO CERTAINTY AND PRECISION OF INFLUENCE OF MATTERS DEALT WITH IN SUPPLEMENTAL REPORT, UPON INTERSTATE COMMERCE TO AND FROM ST. LOUIS AND KEOKUK.

Chicago, M. & St. P. R. Co. v. *State Commission, supra.*

Minnesota Rate Cases, supra.

United States v. *Joint Traffic Assn.*, 171 U. S., 505, 567.

Hopkins v. *United States*, 171 U. S., 578, 594.

New York, L. E. & W. R. Co. v. *Pennsylvania*, 158 U. S., 431, 439.

Standard Oil Co. v. *United States*, 221 U. S., 1, 65-70.

Cincinnati, P. B. S. & P. Co. v. *Bay*, 200 U. S., 179, 184.

United States v. *American Tobacco Co.*, 221 U. S., 106, 179.

IV.

RIGHT OF DEFENDANTS IN ORIGINAL SUIT TO ATTACK THE ORDER OF THE COMMISSION.

Pennsylvania R. Co. v. *Internatl. Coal Min. Co.*, 230 U. S., 184, 197.

Armour Packing Co. v. *United States*, 209 U. S., 56, 83.

Interstate Commerce Commission v. *Louisville & N. R. Co.*, 227 U. S., 88, 91.

United States v. *Louisville & N. R. Co.*, 235 U. S., 314, 321.

Procter & Gamble Co. v. *United States*, 225 U. S., 282, 297, 298.

Norton v. *Shelby County*, 118 U. S., 425, 442.

Windsor v. *McVeigh*, 93 U. S., 274, 282, 283.

The Commission may not characterize as discrimination what, in law, is not discrimination.

Philadelphia & Reading R. Co. v. *United States*, 240 U. S., 334.

Interstate Commerce Commission v. *Louisville & N. R. Co., supra.*

United States v. *Louisville & N. R. Co., supra.*

Interstate Commerce Commission v. *Illinois C. R. Co.*, 215 U. S., 452, 470.

Interstate Commerce Commission v. *Union P. R. Co.*, 222 U. S., 541, 547.

Chicago, M. & St. P. R. Co. v. *State Commission, supra.*

V.

IF THE ORDER IS NOT OPEN TO SAME ATTACK BY DEFENDANTS IN ORIGINAL SUIT AS BY CARRIERS, THE INTERSTATE COMMERCE COMMISSION AND THE UNITED STATES ARE INDISPENSABLE PARTIES, AND THE SUIT FAILS WITHOUT THEIR PRESENCE.

For authorities in support of contention that the District Court should have retained jurisdiction over the Interstate Commerce Commission and the United States, see brief of these appellees on their cross-appeal.

For rule as to indispensable parties, see:

Garzot v. *DeRubio*, 209 U. S., 283, 297.

Minnesota v. *Northern Securities Co.*, 184 U. S., 199, 235.

California v. *Southern P. Co.*, 157 U. S., 229, 249.

Shields v. *Barrow*, 17 How., 130, 140.

Railroad Co. v. *Orr*, 18 Wall., 471, 473.

Bogart v. *Southern P. Co.*, 228 U. S., 137, 147.

BRIEF OF ARGUMENT.

I.

THE ORDER OF THE COMMISSION IS TOO INDEFINITE TO SERVE AS A JUSTIFICATION FOR DISREGARDING THE STATUTES OF ILLINOIS.

> "Where a proceeding to remove unjust discrimination presents solely the question whether the carrier has improperly exercised its authority to initiate rates, the Commission may legally order, in general terms, the removal of the discrimination shown, leaving upon the carrier the burden of determining also the points to and from which rates must be changed, in order to effect a removal of the discrimination. But where, as here, there is a conflict between the Federal and the state authorities, the Commission's order cannot serve as a justification for disregarding a regulation or order issued under state authority, unless, and except so far as, it is definite as to the territory or points to which it applies. For the power of the Commission is dominant only to the extent that the exercise is found by it to be necessary to remove the existing discrimination against interstate traffic. Still, '*certum est quod certum reddi potest.*' "
>
> *American Express Co.* v. *So. Dakota ex rel* (dec. June 11, 1917), 37 Sup. Ct. Rep., 656, 660-661.

This rule requiring definiteness in orders of the Commission, when relied upon as superseding regulations made under state authority, grows out of the fundamental principle stated in the *Minnesota Rate Cases*, 230 U. S., 352, 417, as follows:

> "If this authority of the state (the authority over intrastate railroad rates) be restricted, it must be by virtue of the paramount power of Congress over interstate commerce and its instruments; and, in view of the nature of the subject, a limitation may

not be implied because of a dormant Federal power; that is, one which has not been exerted, but can only be found in the actual exercise of Federal control in such measure as to exclude this action by the state which otherwise would clearly be within its province."

Acts of the Commission in the regulation of rates are legislative in kind, and those acts, in their relation to State statutes and State regulations, are, in their interpretation, subject to the same limitations as is any other Federal legislative act.

In *Louisville & N. R. Co.* v. *Garrett*, 231 U. S., 298, 305, opinion by Mr. Justice Hughes, it is said:

"It has frequently been pointed out that prescribing rates for the future is an act legislative, and not judicial, in kind. (Citing cases.) It pertains, broadly speaking, to the legislative power. The legislature may act directly, or, in the absence of constitutional restriction, it may commit the authority to fix rates to a subordinate body. (Citing cases.)"

The reasoning underlying the rule that a Federal legislative act, in order to override a State statute or regulation, must be definite and specific is stated in *Missouri P. R. Co.* v. *Larabee Flour Mills Co.*, 211 U. S., 612, 623, opinion by Mr. Justice Brewer, as follows:

"But the fact that Congress has intrusted power to that Commission does not, in the absence of action by it, change the rule which existed prior to the creation of the Commission. Congress could always regulate interstate commerce, and could make specific provisions in reference thereto, and yet this has not been held to interfere with the power of the state in these incidental matters. A mere delegation by Congress to the Commission of a like power has no greater effect, and does not of itself disturb the authority of the state. It is not contended that the Commission has taken any action in respect to the particular matters involved. It may never do so, and no one can, in advance, anticipate what it will do

when it acts. Until then the authority of the state in merely incidental matters remains undisturbed. In other words, the mere grant by Congress to the Commission of certain national powers in respect to interstate commerce does not of itself, and in the absence of action by the Commission, interfere with the authority of the state to make those regulations conducive to the welfare and convenience of its citizens. Running through the entire argument of counsel for the Missouri Pacific is the thought that the control of Congress over interstate commerce, and a delegation of that control to a commission, necessarily withdraws from the state all power in respect to regulations of a local character. This proposition cannot be sustained. Until specific action by Congress or the Commission, the control of the state over these incidental matters remains undisturbed."

A clear statement of the rule here invoked is found in *Reid* v. *Colorado*, 187 U. S., 137, 148, opinion by Mr. Justice Harlan, as follows:

> "It should never be held that Congress intends to supersede, or by its legislation suspend, the exercise of the police powers of the states, even when it may do so, unless its purpose to effect that result is clearly manifested. This court has said—and the principle has been often reaffirmed—that 'in the application of this principle of supremacy of an act of Congress in a case where the state law is but the exercise of a reserved power, the repugnance or conflict should be direct and positive, so that the two acts could not be reconciled or consistently stand together.' *Sinnot* v. *Davenport*, 22 How., 227, 243."

See also *Asbell* v. *Kansas*, 209 U. S., 251, 257.

In this connection, the rule of interpretation stated in *Cummings* v. *Chicago*, 188 U. S., 410, 430, has a strong application. The court there points out that it is to be presumed that Congress intends to interfere with the authority of the States with respect to matters theretofore left to their control, only in case that intention is manifested by clear and explicit language. We shall

quote from the opinion in that case, in discussing Point II. What is said about acts of Congress is, of course, applicable to orders of the Interstate Commerce Commission when they are invoked to suspend the operation of State statutes. Other excellent statements of this rule of interpretation are found in *Lake Shore & Michigan Southern R. Co.* v. *Ohio,* 165 U. S., 365, 368, and *Montgomery* v. *Portland,* 190 U. S., 89, 105-106.

Certainly, before an order of the Interstate Commerce Commission can operate to override a State statute, that order must be as definite in form, and the intention of the Commission must be as clearly manifested, as would be required if the Federal authority were exercised directly through an act of Congress. Indeed, we believe that when the act which is invoked to strike down State laws is the act of a mere agency created by Congress, the act of that agency must stand even a higher test of certainty than is required of an act of Congress itself. This is particularly true of the acts of the Interstate Commerce Commission in their relation to State regulation of intrastate rates. In section 1 of the Interstate Commerce Act, Congress expressly provided that the provisions of the act shall not be applied "to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State and not shipped to or from a foreign country from or to any State or territory."

The interference with *specific* intrastate rates in the removal of discrimination is therefore an exception to the general rule laid down by Congress to be observed by the Commission in its dealings with intrastate rates; and, as pointed out by Mr. Justice Brandeis in *American Express Co.* v. *So. Dakota, supra,* "the power of the Commission is dominant only to the extent that the exercise is found by it to be necessary to remove the existing discrimination."

THE PROVISIONS OF THE ORDER (Provision (2) and (4), p. 14, supra) WHICH RELATE TO ALLEGED DISCRIMINATION IN FAVOR OF CHICAGO, ARE TOO INDEFINITE.

Finding (d) in the original report of the Commission (*supra*, p. 10) is limited expressly to Illinois points where the distances from St. Louis and Chicago and from Keokuk and Chicago are *approximately equal.*

Finding (e) of the original report (*supra*, p. 10), which also deals with the alleged discrimination in favor of Chicago, covers points in an indefinite field characterized as "territory intermediate to Chicago, Ill., at the north, and St. Louis, Mo., and Keokuk, Iowa, on the south and southwest."

Provisions (2) and (4) (*supra*, p. 14) in the final order of the Commission are, in the first place, indefinite, because it is impossible to determine with accuracy whether the Commission intended them to cover the territory indefinitely described in finding (e), or not. It may be contended that the Commission did not intend to cover the points in the territory referred to in finding (e), and, in support of this, it may be said that, while the Commission in terms carried forward the provisions of finding (e) into the order of July 12, 1916 (Rec., 51), there is no reference to the language of finding (e) in the final order of the Commission (Rec., 56-59). In this view, provisions (2) and (4) should be limited to Illinois points substantially equidistant from St. Louis and Chicago, and from Keokuk and Chicago. If we speculate, however, that these two provisions do cover the territory referred to in finding (e), then the order is indefinite because it is utterly impossible to determine what the Commission meant by the word "intermediate," as used in the connection in which it is used in finding (e).

Interpreted in connection with the report of the Commission, the points referred to in connection with the alleged discrimination in favor of Chicago clearly are points in intermediate "*competitive*" territory. Just how those lines are to be drawn or how the territory is to be divided is something which the Commission has failed to determine. This failure renders those provisions utterly ineffective for the purpose of superseding a State statute.

THE PROVISIONS OF THE ORDER (Provisions (1) and (3), p. 14, supra), RELATING TO ALLEGED DISCRIMINATION IN FAVOR OF EAST ST. LOUIS AND POINTS OPPOSITE KEOKUK, IN SO FAR AS THEY ATTEMPT TO COVER SO-CALLED "INTERMEDIATE POINTS," ARE TOO INDEFINITE.

The carriers rely upon provisions (1) and (3) (*supra*, p. 14) of the order, when read in connection with the supplemental report of October 17, 1916, as justification for their assertion that the order superseded all Illinois statutory intrastate fares.

Our contention is that those portions of the order are not susceptible of that interpretation, and that, in fact, it is impossible to determine with accuracy what those portions of the order mean.

In this connection, it is important to note the last two paragraphs of the supplemental report of October 17, 1916 (Rec., 54):

> "And not only this burden, but the direct undue prejudice to St. Louis and Keokuk will also continue if the east side cities while on the face of the published tariff paying fares to and from Illinois points upon the same basis as do St. Louis and Keokuk can in practice defeat such fares by paying lower state fares in the aggregate to and from Illinois destinations, by virtue of such an adjustment of fares.
>
> "It is our conclusion, and we so find, that any con-

> temporaneous adjustments of fares between St. Louis or Keokuk and Illinois points, and generally within Illinois, which would permit the defeat of the St. Louis, Keokuk, East St. Louis, or any other east side city fares by methods such as described above, and which would thereby permit the continuance of the undue prejudice which we have found is suffered by St. Louis and Keokuk, and continue to burden interstate commerce, will not comply with the amended order entered herein."

Reading the above finding in connection with the remainder of the supplemental report, it is clear that the Commission could not have intended that all Illinois intrastate fares were subject to the condemnation in the supplemental report. The fact that reference is made in the supplemental report to points at which it is possible *in practice* to defeat the interstate fare indicates clearly that there was a class of points in Illinois not intended to be covered by the language of the report. It is inconceivable that, if the Commission had intended that its report and order should cover all intrastate fares in Illinois, it should not have said so. If it was the will of the Commission that all Illinois intrastate fares were to be affected by the order, its method of giving expression to that will is contrary to all rules relating to orders of this kind. To attempt to interpret this order as applying to all intrastate fares is, in effect, to charge the Commission with lack of frankness, and to assert that it attempted to accomplish by indirection what it feared to state in a simple, direct order.

The Commission made no attempt to determine the points at which it would be practically possible to defeat the interstate fare by the method indicated in the supplemental report. It is only necessary to look at the railroad map to appreciate that, as to a very large number of the points, there is no reasonable probability that any interstate fare would be defeated by the

maintenance of the intrastate fares. As pointed out in *Chicago, M. & St. P. R. Co.* v. *State Public Utilities Commission,* 242 U. S., 333, 337, 338, it is not sufficient that there be some indirect or infinitesimal influence upon interstate commerce. It is essential that there be "certainty and precision" of influence. Therefore, before the Commission could make an order along the lines of its supplemental report, it was essential that it should determine what were the points at which there would be a definite and certain influence in defeating an interstate fare.

The absence of precise thinking from the supplemental report is further manifest when we consider the assertion that the practice illustrated by the diagram in the report would operate to create discrimination against St. Louis and in favor of East St. Louis. Now, it is perfectly obvious that so long as the rates to East St. Louis and St. Louis are the same, there can be no direct, undue prejudice to St. Louis because a passenger may ride from X to I at the State rate. If the passenger gets off at I, he would be required to purchase his ticket at the same rate of fare, whether his destination is East St. Louis or St. Louis.

If any further demonstration of the indefiniteness of this report and order is required, it is found on pages 41 and 42 of the brief for the carriers.* Reference is there made to an Illinois statute (Hurd's R. S. 1915-16, Chap. 114, par. 116, p. 2091) which makes it the duty of the carrier to provide for the redemption of tickets or parts of tickets which have not been used, and provides a penalty for failure to redeem tickets. It is argued by the carriers

*This reference was in the carriers' brief as originally filed. It appears to be omitted from the revised brief. The making and the withdrawal of the suggestion demonstrate the hopeless uncertainty in the order, and the confusion resulting from the attempt by the Commission to delegate its functions to the carriers.

that in view of this statute, it is necessary, in order to remove discrimination, to carry the 2.4-cent basis to every point in Illinois. It is by this process of reasoning that the carriers seek to extend the application of the supplemental report to points not covered by the broadest interpretation of its language. If the Commission had any control over the subject at all, it was for it to determine whether the effect of the statute above cited made necessary the extension of the control over intrastate rates to points which but for the statute would not be affected; and, as against the State Passenger Fare statute, it could not delegate to the carriers the right to determine the effect, if any, upon the application of the Commission's order.

Section 39 of the Illinois Public Utilities Commission law (Rec., 360; Hurd's R. S., Chap. 111a, par. 39, p. 2031) provides:

> "* * * No person or corporation shall, directly or indirectly, by any device or means, whatsoever, whether with or without the consent or connivance of a public utility or any of its officers, or employes, seek to obtain or obtain any service, commodity, or product at less than the rate or other charge then established and in force therefor. * * *"

Section 77 of the same act (Rec., 380; Hurd's R. S., Chap. 111a, par. 77, p. 2046-2047) provides that anyone who violates this provision of the act shall be punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or by both.

If the lawful rate to East St. Louis is on the basis of 2.4 cents per mile, an intrastate passenger who undertakes to defeat that rate by the device of purchasing a ticket for a part of the continuous journey at the rate of 2 cents per mile, is liable to prosecution for the offense defined above. Certainly, that is to be considered in de-

termining whether there is any reasonable probability that the methods referred to in the supplemental report will be successfully attempted. And the Commission did not pretend to consider that question, but left the decision of the whole matter to the carriers.

DEFINITE PORTIONS OF THE ORDER MAY NOT BE SEVERED FROM THOSE WHICH ARE INDEFINITE, IN ORDER TO SAVE THEM.

Some parts of the order are definite. They are so interwoven with the invalid provisions, however, that they may not be severed and applied separately. The rule which is applicable to all legislative acts in this respect applies to orders of the Commission. *Louisville & N. R. Co.* v. *Garrett, supra* (p. 305); *Illinois C. R. Co.* v. *McKendree,* 203 U. S., 514, 529, 530.

This rule is stated in the *Employers' Liability Cases,* 207 U. S., 463, 501, opinion by Mr. Justice White, as follows:

> "Where a statute contains provisions which are constitutional and others which are not, effect may be given to the legal provisions by separating them from the illegal. But this applies only to a case where the provisions are separable, and not dependent one upon the other, and does not support the contention that that which is indivisible may be divided. Moreover, even in a case where legal provisions may be severed from those which are illegal, in order to save, the rule applies only where it is plain that Congress would have enacted the legislation with the unconstitutional provisions eliminated."

See *Illinois C. R. Co.* v. *McKendree, supra.*

In *Trade-Mark Cases,* 100 U. S., 82, 99, this court said:

> "If we should, in the case before us, undertake to make, by judicial construction, a law which Congress did not make, it is quite probable we should do what, if the matter were now before that body, it would

> be unwilling to do; namely, make a trade-mark law which is only partial in its operation, and which would complicate the rights which parties would hold, in some instances, under the act of Congress, and in others under state law. Cooley, Const. Lim., 178, 179; *Com.* v. *Hitchings,* 5 Gray, 482."

In *Internatl. Text Book Co.* v. *Pigg,* 217 U. S., 91, 113, this court, opinion by Mr. Justice Harlan, said:

> "In *Allen* v. *Louisiana,* 103 U. S., 80, 84, this court referred with approval to what Chief Justice Shaw said on this point in *Warren* v. *Charlestown,* 2 Gray, 84. Referring to the rule obtaining in cases of statutes in part constitutional and in part unconstitutional, that eminent jurist said: 'But, if they are so mutually connected with and dependent on each other, as conditions, considerations, or compensations for each other, as to warrant a belief that the legislature intended them as a whole, and that, if all could not be carried into effect, the legislature would not pass the residue independently, and some parts are unconstitutional, all the provisions which are thus dependent, conditional, or connected, must fall with them.' See also *Poindexter* v. *Greenhow,* 114 U. S., 270; *Spraigue* v. *Thompson,* 118 U. S., 90; *Huntington* v. *Worthen,* 120 U. S., 97."

And see *United States* v. *JuToy,* 198 U. S., 253, 262, 263; *McFarland* v. *Amer. Sugar Refin. Co.,* 241 U. S., 79, 87; *Muskrat* v. *United States,* 219 U. S., 346, 363; *Connelly* v. *Union Sewer Pipe Co.,* 184 U. S., 540, 565.

And in the supplemental report it is expressly stated by the Commission that an adjustment of fares which does not include what the Commission has attempted to cover in the supplemental report will not comply with the amended order. (Rec., 54.) Here is a clear declaration that the order is to stand or fall as a whole.

Nor can it be asserted that, even if it were permissible to sever the definite portions of the order from the indefinite ones, those portions relating to alleged discrimination in favor of East St. Louis and in favor of the

points directly opposite Keokuk could be sustained. The Commission attempted to characterize as undue and unreasonable discrimination something which does not fall within the definition of those words as used in the third section of the Interstate Commerce Act. As we have pointed out in the additional statement of facts, the gist of the charge is, not that the business of St. Louis or Keokuk has been injured, but that the railroads have been prevented from collecting their full interstate fares. The remedy appears to be to enforce existing statutes aimed at practices of this kind, and, if those statutes are not sufficient, to supplement them by laws which it is proper for Congress to pass in its control over interstate traffic. To call this alleged "rate beating" at East St. Louis, discrimination, does not harmonize with the meaning of that word as it is generally used in cases involving actual commercial injury. This question, however, is not in the case, as, for the reasons which we have stated, the order may not be divided; and the Commission has expressed its will that it shall not be divided.

II.

THE ORDER AS INTERPRETED BY THE CARRIERS IS BEYOND THE POWER OF THE COMMISSION.

In asserting that the order of the Commission is statewide in its scope and effect, the carriers maintain that, aside from questions of discrimination against St. Louis and Keokuk, the Commission has the power to remove a discrimination against interstate passenger traffic, as such, growing out of the single fact that there is a lower basis of fares on State traffic than is contemporaneously maintained for the same character of service on interstate traffic. They say:

> "This discrimination as to traffic, as such, *is general in its nature and applies to the entire passenger traffic in the State of Illinois.*" (Carriers' Brief, p. 39.)

In other words, interstate traffic, as such, is a "particular description of traffic" within the meaning of the prohibition of section 3 of the Interstate Commerce Act against subjecting "any particular person, company, firm, corporation, or locality, or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect, whatsoever."

If this contention is correct, the single fact that a carrier maintains State rates on one basis, and interstate rates for traffic of the same character, on another basis, constitutes unjust discrimination violative of the act; and the Interstate Commerce Commission has the power, and it is its duty, to strike down, by a single sweeping order, every intrastate rate established on a different basis from the interstate rate for traffic of the same kind. To state the proposition is to demonstrate its far-reaching effect and its great importance.

The proposition for which the carriers are contending here is, in its last analysis, substantially the same as the one which was asserted and overruled in the *Minnesota Rate Cases.* The proposition of the carriers there was that Congress, by section 3 of the Interstate Commerce Act, had withdrawn from the States authority over intrastate rates, for the reason that, in the very nature of things, the intrastate rates must conform to the interstate standard, or discrimination would result. It is true that in the *Minnesota Rate Cases,* no action of the Interstate Commerce Commission was before the court for review. It is also true, however, that the unlawfulness of discrimination does not arise from any action of the Interstate Commerce Commission, but from the statute, itself, which declares discrimination of the kinds there specified to be unlawful. The proposition here is that Congress, having expressly provided in the first section of the act that the provisions of the act shall not apply to intrastate traffic, by the third section makes any difference between interstate and intrastate standards of rates unlawful *as such,* leaving to the Commission, in a situation which involves no administrative question but the enforcement of the law upon the undisputed facts, to decide whether or not the Federal statute is to be enforced. We say, therefore, that, perhaps in slightly different form, but in substance, the proposition of the carriers here is the same as their proposition in the *Minnesota Rate Cases.*

The construction of the Interstate Commerce Act for which the carriers here contend finds no support in any of the decisions of this court.

In the opinion in those cases, there is a comprehensive review of the principles which lead up to the determination of the relation of the proviso in section 1* of the Interstate Commerce Act to section 3† of that act. The court, after referring to the supremacy of the national power within its appointed sphere, and pointing out the matters relating to interstate commerce with which the State may not interfere, because, if regulated at all, their regulation should be by a single authority, gives leading illustrations of those matters of a local nature as to which it was intended the State control should be exercised until the Federal government should decide to supersede the State regulations. After referring to examples of the valid exercise of State power with respect to the regulation of pilotage, the improvement of harbors, the construction of dams and bridges, the regulation of wharfage charges, quarantine regulations, the protection of the inhabitants of a State from fraud and imposition, the protection of game, provisions for damages in case of wrongful death, the creation of liens upon vessels for supplies, regula-

* The proviso in Section 1 of the Interstate Commerce Act is as follows: "*Provided, however,* That the provisions of this Act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property wholly within one State and not shipped to or from a foreign country from or to any State or Territory as aforesaid, nor shall they apply to the transmission of messages by telephone, telegraph, or cable wholly within one State and not transmitted to or from a foreign country from or to any State or Territory as aforesaid." (24 Stat. L., 379, as amended by 34 Stat. L., 584, 36 Stat. L., 544.)

† Section 3 of the Interstate Commerce Act is as follows: "That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. * * *" (24 Stat. L., 380.)

tions for the safeguarding of life and property which extend incidentally to the operation of a carrier in the conduct of interstate business, and other similar matters, the court said (pp. 411, 412):

> "And whenever, as to such matters, under these established principles, Congress may be entitled to act, by virtue of its power to secure the complete government of interstate commerce, the state power nevertheless continues until Congress does act and by its valid interposition limits the exercise of the local authority."

The court then pointed out that those principles apply to the authority of the State to prescribe reasonable maximum rates for intrastate transportation, reviewed the history of State legislation on that subject, and referred to the line of cases in which the State's authority to regulate rates for intrastate transportation was upheld.

The court next pointed out that when the act to regulate commerce was enacted, Congress carefully defined the scope of its regulation, and expressly provided that it was not to extend to purely intrastate traffic. Reference is made to the proviso in the first section of the act, that the provisions of the act shall not apply to intrastate traffic, and to the fact that this proviso was reenacted when the law was amended in 1906, and again when it was amended in 1910. The court then used the following language (p. 419):

> "It is urged, however, that the words of the proviso are susceptible of a construction which would permit the provisions of section 3 of the act, prohibiting carriers from giving an undue or unreasonable preference or advantage to any locality, to apply to unreasonable discrimination between localities in different states, as well when arising from an intrastate rate as compared with an interstate rate as when due to interstate rates exclusively. If it be assumed that the statute should be so construed

(and it is not necessary now to decide the point), it would inevitably follow that the controlling principle governing the enforcement of the act should be applied to such cases as might thereby be brought within its purview; and the question whether the carrier, in such a case, was giving an undue or unreasonable preference or advantage to one locality as against another, or subjecting any locality to an undue or unreasonable prejudice or disadvantage, would be primarily for the investigation and determination of the Interstate Commerce Commission, and not for the courts. The dominating purpose of the statute was to secure conformity to the prescribed standards through the examination and appreciation of the complex facts of transportation by the body created for that purpose; and, as this court has repeatedly held, it would be destructive of the system of regulation defined by the statute if the court, without the preliminary action of the Commission, were to undertake to pass upon the administrative questions which the statute has primarily confided to it. (Citing cases.) In the present case there has been no finding by the Interstate Commerce Commission of unjust discrimination violative of the act; and no action of that body is before us for review."

The court then stated the question as follows (p. 420):

"The question we have now before us, essentially, is whether, after the passage of the interstate commerce act, and its amendment, the state continued to possess the state-wide authority which it formerly enjoyed to prescribe reasonable rates for its exclusively internal traffic. That, as it plainly appears, was the nature of the action taken by Minnesota, and the attack, however phrased, upon the rates here involved as an interference with interstate commerce, is in substance a denial of that authority."

The court answered the question (p. 420):

"Having regard to the terms of the Federal statute, the familiar range of state action at the time it was enacted, the continued exercise of state authority in the same manner and to the same extent

after its enactment, and the decisions of this court, recognizing and upholding this authority, we find no foundation for the proposition that the act to regulate commerce contemplated interference therewith."

And the court added (pp. 421, 423):

"It cannot be supposed that Congress sought to accomplish by indirection that which it expressly disclaimed, or attempted to override the accustomed authority of the states without the provision of a substitute. On the contrary, the fixing of reasonable rates for intrastate transportation was left where it had been found; that is, with the states and the agencies created by the states to deal with that subject. * * *

"If it be said that, in the contests that have been waged over state laws during the past twenty-five years, the question of interference with interstate commerce by the establishment of state-wide rates for intrastate traffic has seldom been raised, this fact itself attests the common conception of the scope of state authority. And the decisions recognizing and defining the state power wholly refute the contention that the making of such rates either constitutes a direct burden upon the interstate commerce or is repugnant to the Federal statute."

The court, therefore, in language so strong and clear that its meaning may not be doubted, asserted that after the passage of the Interstate Commerce Act the States did continue to possess the state-wide authority which they formerly enjoyed, to control rates for intrastate traffic; and that the single fact that State rates might be on one basis and interstate rates on another basis was not repugnant to the provisions of the Federal statute. True, as pointed out by the court, the state-wide authority over intrastate rates might be subject to the paramount authority of the Interstate Commerce Commission to remove discrimination between localities in different States, as well when arising from an intrastate rate as compared with an interstate rate as when due to

interstate rates exclusively. In the question stated but not decided in the *Minnesota Rate Cases,* the limitation of the discrimination there described, to discrimination involving the element of locality, is an essential part of the proposition which was decided by the court in those cases. If section 3 of the Interstate Commerce Act has any such meaning as was contended by the carriers in the *Minnesota Rate Cases,* and as is contended by the carriers in the case at bar, then its effect is really to strike out the proviso of section 1 of the act as relating to rates, and the *Minnesota Rate Cases* should have been decided in favor of the carriers. Unless the discrimination in the question reserved is limited to discrimination involving locality as one of its elements, nothing stood between the carriers in the *Minnesota Rate Cases* and a decision in their favor, except the suggestion, which we think is not to be entertained, that Congress intended the state-wide authority which it had declared to be unlawful, if interstate and intrastate rates as such were on a different basis, should be exercised at the pleasure of the Interstate Commerce Commission, and that the Commission was to decide whether a situation, the facts of which were apparent to all and which required no administrative investigation, was to be dealt with as lawful or unlawful.

When we examine the language of section 3 of the Interstate Commerce Act, it is apparent that, so far as the relation between interstate and intrastate rates is concerned, the discrimination is, in the nature of things, limited to discrimination of which locality is an element, unless it is held that interstate commerce, as such, is a *particular* description of traffic, as is contended by the carriers in the case at bar.

The interpretation of section 3 which gives effect

to the word "particular" and leaves it with a meaning consistent with its derivation, is in harmony with well established rules of statutory construction.

This court, in the opinion in the *Minnesota Rate Cases* (p. 421), referred to *Missouri P. R. Co.* v. *Larabee Flour Mills Co.*, 211 U. S., 612, 623, and we have quoted from the opinion in that case (*supra*, p. 21). We have also referred to the admirable statement of the rule in *Reid* v. *Colorado, supra,* to the effect that it should never be held that Congress intended to supersede proper State regulations, unless its purpose to effect that result is clearly manifested, and that, in the application of the principle of the supremacy of an act of Congress in a case where the State law is but the exercise of a reserved power, the repugnance or conflict should be direct and positive, so that the two acts cannot be reconciled or consistently stand together.

This rule of interpretation is clearly stated and applied in *Cummings* v. *Chicago,* 188 U. S., 410, 428-431. The case involved the question of the effect of the acts of Congress (26 Stat. L. 426, 454, and 30 Stat. L. 1121, 1151), relative to the construction of bridges over, and the erection of structures in, navigable waters of the United States, upon the authority of the States over those subjects. The court, after pointing out that until Congress acts on the subject, the power of the States over bridges across its navigable streams is plenary, stated the question to be decided as follows (p. 428):

> "Did Congress, in the execution of its power under the Constitution to regulate interstate commerce, intend by the legislation in question to supersede, for every purpose, the authority of Illinois over the erection of structures in navigable waters wholly within its limits? Did it intend to declare that the wishes of Illinois in respect of structures

to be erected in such waters need not be regarded, and that the assent of the Secretary of War, proceeding under the above acts of Congress, was alone sufficient to authorize such structures?''

The court then quoted from the opinion of Mr. Justice White in *Lake Shore & M. S. R. Co.* v. *Ohio*, 165 U. S., 365, 368, as follows:

'' 'The contention is that the statute in question manifests the purpose of Congress to deprive the several states of all authority to control and regulate any and every structure over all navigable streams, although they be wholly situated within their territory. That full power resides in the states as to the erection of bridges and other works in navigable streams wholly within their jurisdiction, in the absence of the exercise by Congress of authority to the contrary, is conclusively determined. * * * The mere delegation to the Secretary of the right to determine whether a structure authorized by law has been so built as to impede commerce, and to direct, when reasonably necessary, its modification so as to remove such impediment, does not confer upon that officer power to give original authority to build bridges, nor does it presuppose that Congress conceived that it was lodging in the Secretary power to that end. * * * The mere delegation of power to direct a change in lawful structures so as to cause them not to interfere with commerce cannot be construed as conferring on the officer named the right to determine when and where a bridge may be built.' Referring to the 7th section of the act of 1890, the court said: 'The language of the 7th section makes clearer the error of the interpretation relied on. The provision that it shall not be lawful to thereafter erect any bridge ''in any navigable river or navigable waters of the United States, under any act of the legislative assembly of any state, until the location and plan of such bridge * * * have been submitted to and approved by the Secretary of War,'' contemplated that the function of the Secretary should extend only to the form of future structures, since the act would not have provided for the future erection of bridges under state

authority if its very purpose was to deny for the future all power in the states on the subject. * * * The construction claimed for the statute is that its purpose was to deprive the states of all power as to every stream, even those wholly within their borders, whilst the very words of the statute, saying that its terms should not be construed as conferring on the states power to give authority to build bridges on streams not wholly within their limits, by a negative pregnant with an affirmative, demonstrate that the object of the act was not to deprive the several states of the authority to consent to the erection of bridges over navigable waters wholly within their territory.' "

The court, opinion by Mr. Justice Harlan, then added:

"The decision in *Lake Shore & M. S. R. Co.* v. *Ohio* was rendered before the passage of the River and Harbor Act of 1899. But the 10th section of that act, upon which the permit of the Secretary of War was based, is not so worded as to compel the conclusion that Congress intended, by that section, to ignore altogether the wishes of Illinois in respect of structures in navigable waters that are wholly within its limits. We may assume that Congress was not unaware of the decision of the above case in 1897 and of the interpretation placed upon existing legislative enactments. If it had intended by the act of 1899 to assert the power to take under national control, for every purpose, and to the fullest possible extent, the erection of structures in the navigable waters of the United States that were wholly within the limits of the respective states, and to supersede entirely the authority which the states, in the absence of any action by Congress, have in such matters, such a radical departure from the previous policy of the government would have been manifested by clear and explicit language. In the absence of such language it should not be assumed that any such departure was intended.

"We do not overlook the long-settled principle that the power of Congress to regulate commerce among the states 'is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution.' *Gib-*

bons v. *Ogden*, 9 Wheat., 1, 196; *Brown* v. *Maryland*, 12 Wheat., 419, 446; *Brown* v. *Houston*, 114 U. S., 630. But we will not at this time make any declaration of opinion as to the full scope of this power, or as to the extent to which Congress may go in the matter of the erection, or authorizing the erection, of docks and like structures in navigable waters that are entirely within the territorial limits of the several states. Whether Congress may, against or without the expressed will of a state, give affirmative authority to private parties to erect structures in such waters, it is not necessary in this case to decide. It is only necessary to say that the act of 1899 does not manifest the purpose of Congress to go to that extent under the power to regulate foreign and interstate commerce and thereby to supersede the original authority of the states."

See, also, *Montgomery* v. *Portland*, 190 U. S., 89, 105, 106.

Now, Congress, in the first section of the Interstate Commerce Act, has expressly declared that the provisions of the act shall not extend to intrastate traffic. Here the right of the State to regulate intrastate rates is recognized. Section 3, therefore, must be given an interpretation which will not wipe out state-wide control entirely, but which limits the operation of the section to the discrimination there described. In other words, in the application of section 3, its supremacy over State control should be asserted only so far as Congress has clearly manifested its purpose, and if there is any reasonable interpretation of section 3 by which State control is preserved, that interpretation must be adopted.

The absence of power in the Commission to set aside State control, by the mere assertion that interstate traffic, as such, is discriminated against in favor of intrastate traffic, as such, is, we think, recognized by the court in the cases which have been decided subsequent to the decision of the *Minnesota Rate Cases*.

THE SHREVEPORT CASE. (234 U. S., 342, 357.)

This case involved a question of discrimination between specific localities. The order covered rates to and from those specific localities. There was no attempt to interfere with rates throughout an entire State because of an alleged discrimination against interstate traffic, or because of some remote or inconsequential bearing upon the discrimination affecting specific localities. The court there stated, in terms, the question reserved in the *Minnesota Rate Cases* (pp. 357, 358) as applied to the facts of the case. The question stated involved discrimination between specific localities as to competitive points and as to territory which was commercially tributary. The court, as to that kind of discrimination, answered the question stated in the *Minnesota Rate Cases,* in the affirmative. Nothing more was decided, and we submit nothing more was intended to be decided by the court, and that the language of Mr. Justice Hughes in the *Shreveport case* is to be interpreted and applied in connection with and as limited by the question stated by him in his opinion in the *Minnesota Rate Cases* and made the foundation of his opinion in the *Shreveport case.*

CHICAGO, M. & ST. P. R. CO. v. STATE PUBLIC UTILITIES COMMISSION, AND SOUTH DAKOTA EXPRESS CASES.

In *Chicago, M. & St. P. R. Co.* v. *State Public Utilities Commission, supra,* decided subsequent to the decision in the *Shreveport case,* this court had occasion again to refer to the *Minnesota Rate Cases* and to the principles stated in *Missouri P. R. Co.* v. *Larabee Flour Mills Co., supra,* and related cases, and, in the unanimous opinion of the court announced by Mr. Justice McKenna, said:

> "The contention based upon an interstate commerce element in a rate, that is, the relation of interstate and intrastate rates and their reciprocal effect,

was at one time quite formidable, but since the *Minnesota Rate Cases* (*Simpson* v. *Shepard*), 230 U. S., 352, its perplexity, arising from a conflict of powers, has been simplified. In those cases it was decided that there is a field of operation for the power of the state over intrastate rates and the power of the nation over interstate rates.

"In other words, and in the language of Mr. Justice Hughes, who delivered the opinion of the court: 'The fixing of reasonable rates for intrastate transportation was left where it had been found; that is, with the states and the agencies created by the states to deal with that subject (*Missouri P. R. Co.* v. *Larabee Flour Mills Co.*, 211 U. S., 612),' until the authority of the state is limited 'through the exertion by Congress of its paramount constitutional power where there may be a blending of interstate and intrastate operations of interstate carriers.' But it was decided that Congress had not exerted its power by the enactment of the Interstate Commerce Act."

In the *South Dakota Express Cases, supra*, the discrimination there charged was against Sioux City, Iowa, and in favor of five specific localities in South Dakota, and the discrimination dealt with in the opinion of the court was a discrimination between specific localities. To use the significant language of Mr. Justice Brandeis, who delivered the opinion of the court:

"The report makes it thus perfectly clear that the order applies only to the 'points in competitive territory,' or, as the Supreme Court expresses it, those 'commercially tributary' both to the five cities and to Sioux City."

III.

THE ATTEMPT BY THE COMMISSION, IN THE SUPPLEMENTAL REPORT, TO INTERFERE WITH STATE RATES BETWEEN SO-CALLED "INTERMEDIATE POINTS," IN ORDER TO REMOVE DISCRIMINATION AGAINST ST. LOUIS AND KEOKUK, IS BEYOND THE POWER OF THE COMMISSION, BECAUSE OF A LACK OF CERTAINTY AND PRECISION IN THE INFLUENCE OF THE STATE RATES UPON INTERSTATE TRAFFIC TO AND FROM ST. LOUIS AND KEOKUK.

The power of the Commission to make an order which will sweep aside all State regulation must be found, if it is found at all, in an interpretation of section 3 of the Interstate Commerce Act, which gives to the Commission power to declare and remove discriminations against interstate commerce as one of the specific descriptions of traffic referred to in the section. It cannot be asserted as a necessary exercise of the power to remove the discrimination against St. Louis and Keokuk. It is true, of course, that every intrastate rate, and in fact every intrastate transaction of a common carrier, has some remote effect upon interstate commerce to and from every large commercial center. However, before the Commission may require a change of State rates to remove discrimination against St. Louis and Keokuk, there must be some direct, substantial, and certain effect produced by the maintenance of the State rate, so that it may be said that injury is inflicted upon either St. Louis or Keokuk if the State rate is maintained. We have already pointed out that the assertions in the supplemental report about damage to St. Louis or Keokuk resulting from the methods described in the supplemental report lack precision of thought, and that, when analyzed, the assertions contradict and destroy each other. This court, in *Chicago, M. & St. P. R. Co.* v. *State Public Utilities Com-*

mission, supra, has laid down the rule as to certainty and precision of influence, in the following words:

> "But a relation is asserted between the state and interstate haul because it is said to be manifest that the order of the State Commission gives commercial advantages to shippers and producers of coal in Illinois over shippers and producers outside of the state. But there is nothing in the record that justifies the confidence of the assertion. There are too many factors to be considered for such offhand declarations to be accepted. Some relation we may admit between the state and interstate service, but the evidence does not bring it within that certainty and precision of influence that induced the decision in *Houston, E. & W. T. R. Co.* v. *United States,* 234 U. S., 342, but leaves it controlled by the *Minnesota Rate Cases, supra; Oregon R. & Nav. Co.* v. *Campbell,* 230 U. S., 525; and *Louisville & N. R. Co.* v. *Garrett,* 231 U. S., 298."

The rule of definiteness and precision of effect, here invoked, is one frequently applied to matters affecting interstate commerce. It is the rule of reasonable interpretation, which must be applied to all statutes of that kind. Illustrative cases are:

United States v. *Joint Traffic Assn.,* 171 U. S., 505, 567.

Hopkins v. *United States,* 171 U. S., 578, 594.

New York L. E. and W. Co. v. *Pennsylvania,* 158 U. S., 431, 439.

Standard Oil Co., v. *United States,* 221 U. S., 1, 65-70.

Cincinnati P. B. S. and P. Co. v. *Bay,* 200 U. S., 179, 184.

United States v. *Am. Tobacco Co.,* 221 U. S., 106, 179.

In deciding the case in the trial court, District Judge Landis dealt with this question of certainty and precision of influence, as follows (Rec., 189):

> "The position of the carriers is that to relieve

St. Louis and Keokuk, it is essential, choosing the alternative that they have chosen, when the passenger gets on at Englewood to ride to Blue Island, to charge him 2.4 cents instead of 2 cents, to relieve St. Louis and to relieve Keokuk.

"Now, that is what this case is, reduced to its finality, and I am asked to enter an order enjoining the State's Attorney of Cook County from proceeding to prosecute the North Western Railway Company if it refuses to transport from Lake Forest to Highland Park, a passenger at 2 cents per mile, the Illinois lawful rate.

"So much for a statement of the case. If Terre Haute, Indiana, has a business men's league, if the situation presented to me authorizes me to enjoin the defendants as prayed, and that Terre Haute business men's league would go to the Interstate Commerce Commission, St. Louis not having gone, Keokuk not having gone, nobody having gone, and should represent to the Interstate Commerce Commission that across the line at Paris, Illinois, there were commercial houses in competition with the Terre Haute houses, and that because of an Illinois 2-cent rate business in Illinois would go to Paris, purchasers of commodities would travel to Paris and stop, who otherwise would come to Terre Haute and make their purchases otherwise, in the absence of a 2.4 cents interstate rate,—the position of the plaintiffs is that if Terre Haute filed such a petition before the Commission and asked for such relief, showing what the St. Louis Board of Trade showed here as to discrimination, that the Interstate Commerce Commission would have the power to enter an alternative order which would give to a railway traffic official the power to raise rates between Freeport and Rockford, between Golconda and Reevesville, in order to relieve Terre Haute, Indiana, of that discrimination. *That is this case, and that is not an extreme statement of this case.*

"The question remains, has the existing lawful 2-cent rate been suspended? The only way it can be suspended, so that the order can go against this Utilities Commission, so that the order may tie the hands of the prosecuting officers, is that it shall be superseded by a rate authorized by law. The only

way that rate can be established is by the State Legislature, which has not acted, or by the Interstate Commerce Commission, in the exercise of its power to avoid discrimination.

"It is my opinion and conclusion that there is no earthly power, no possible power in the Interstate Commerce Commission, under the guise of relieving St. Louis and Keokuk of discrimination, to repeal the Illinois 2-cent fare law.

"Under Judge Hughes' decision it has the power to supersede the law in so far as the superseding of that law is necessary to relieve St. Louis and Keokuk of this discrimination. They have not chosen to limit their action to that result, a result which is the only result that the petitioning Board of Trade asked; a result which is the only result that the Keokuk Board of Trade asked; but they have, for some reason, gone beyond and carried their action to the finality that the court has indicated, which, in my view, as I said a while ago, presents a question that is easy of solution, namely, that it is completely and obviously beyond the power of the Commission."

Literally, thousands of illustrations may be given, by reference to the map and schedules, which are no more extreme than those stated in the opinion of the District Judge. The case of the Chicago and Northwestern Railway Company, for example, presents a carrier, practically all of whose fares are utterly remote from any conceivable influence upon the interstate traffic specifically involved.

IV.

THE RIGHT OF DEFENDANTS TO THE ORIGINAL BILL TO ATTACK THE ORDER OF THE COMMISSION.

The carriers in their brief undertake to draw a distinction between direct and collateral attack upon the order of the Commission. The distinction is not pertinent. Certainly, if the order is beyond the power of Congress in the regulation of interstate commerce, or beyond the power of the Commission under the Interstate Commerce Act, it is to be treated as if it had never been made. *Norton* v. *Shelby County,* 118 U. S., 425, 442.

In applying what has been said as to orders of boards of certain kinds, the learned counsel for the carriers overlook the fact that there is claimed for the order of the Commission, and that, if valid, it has, the effect of a statute. *Pennsylvania R. Co.* v. *Internatl. Coal Min. Co.,* 230 U. S., 184, 197.

Orders which are *void* may be attacked whenever they are asserted as the basis of either relief or defense. *Windsor* v. *McVeigh,* 93 U. S., 274, 282, 283.

Orders of the Commission made "without evidence" are void in the same sense as those made without constitutional or legislative authority. *Procter & Gamble Co.* v. *United States,* 225 U. S., 282, 297, 298; *Interstate Commerce Commission* v. *Louisville & N. R. Co.,* 227 U. S., 88, 91; *United States* v. *Louisville & N. R. Co.,* 235 U. S., 314, 321.

In *Interstate Commerce Commission* v. *Louisville & N. R. Co., supra,* the court, opinion by Mr. Justice Lamar, said (p. 91):

> "But the statute gave the right to a full hearing, and that conferred the privilege of introducing testi-

mony, and at the same time imposed the duty of deciding in accordance with the facts proved. A finding without evidence is arbitrary and baseless. And if the government's contention is correct, it would mean that the Commission had a power possessed by no other officer, administrative body, or tribunal under our government. It would mean that, where rights depended upon facts, the Commission could disregard all rules of evidence, and capriciously make findings by administrative fiat. Such authority, however beneficently exercised in one case, could be injuriously exerted in another, is inconsistent with rational justice, and comes under the Constitution's condemnation of all arbitrary exercise of power.

"In the comparatively few cases in which such questions have arisen it has been distinctly recognized that administrative orders, quasi-judicial in character, are void if a hearing was denied; if that granted was inadequate or manifestly unfair; if the finding was contrary to the 'indisputable character of the evidence' (*Tang Tun* v. *Edsell*, 223 U. S., 681; *Chin Yow* v. *United States*, 208 U. S., 13; *Low Wah Suey* v. *Backus*, 225 U. S., 468; *Zakonaite* v. *Wolf*, 226 U. S., 272), or if the facts found do not, as a matter of law, support the order made (*United States* v. *Baltimore & O. S. W. R. Co.*, 226 U. S., 14; *Atlantic Coast Line R. Co.* v. *North Carolina Corp. Commission*, 206 U. S., 20; *Wisconsin, M. & P. R. Co.* v. *Jacobson*, 179 U. S., 301; *Washington ex rel. Oregon R. & Nav. Co.* v. *Fairchild*, 224 U. S., 510; *Interstate Commerce Commission* v. *Illinois C. R. Co.*, 215 U. S., 470; *Southern P. Co.* v. *Interstate Commerce Commission*, 219 U. S., 433; *Muser* v. *Magone*, 155 U. S., 247)."

In *United States* v. *Louisville & N. R. Co.*, 235 U. S., 314, 321, the same principle is recognized. Chief Justice White, delivering the opinion of the court, said:

"While these conclusions demonstrate the error in the action of the court below, that result does not authorize us to reverse and give effect to the order of the Commission without going further, since it must be determined whether the action of the Commission was repugnant to the Constitution, in excess of the

> powers which that body possessed, or, *what is equivalent thereto,* was wholly unsustained by proof."

Of course, there is no such thing as the exercise of arbitrary power, void against direct assault, yet valid against what is characterized as collateral attack.

No exposition of this proposition can be found, stronger than the reasoning of Mr. Justice Field in *Windsor* v. *McVeigh, supra,* leading up to his statement that "*jurisdiction is the right to hear and determine, not to determine without hearing.*" We quote the following (pp. 282, 283):

> "The doctrine invoked by counsel, that, where a court has once acquired jurisdiction, it has a right to decide every question which arises in the cause, and its judgment, however erroneous, cannot be collaterally assailed, is, undoubtedly correct as a general proposition; but, like all general propositions, is subject to many qualifications in its application. All courts, even the highest, are more or less limited in their jurisdiction; they are limited to particular classes of actions, such as civil or criminal; or to particular modes of administering relief, such as legal or equitable; or to transactions of a special character, such as arise on navigable waters, or relate to the testamentary disposition of estates; or to the use of particular process in the enforcement of their judgments. *Norton* v. *Meader,* 4 Sawy., 603, Circuit Court for California. Though the court may possess jurisdiction of a cause, of the subject matter and of the parties, it is still limited in its modes of procedure, and in the extent and character of its judgments. It must act judicially in all things, and cannot then transcend the power conferred by the law. If, for instance, the action be upon a money demand, the court, notwithstanding its complete jurisdiction over the subject and parties, has no power to pass judgment of imprisonment in the penitentiary upon the defendant. If the action be for libel or personal tort, the court cannot order in the case a specific performance of a contract. If the

action be for the possession of real property, the court is powerless to admit in the case the probate of a will. Instances of this kind show that the general doctrine stated by counsel is subject to many qualifications. The judgments mentioned, given in the cases supposed, would not be merely erroneous; they would be absolutely void; because the court in rendering them would transcend the limits of its authority in those cases. See the language of Mr. Justice Miller, to the same purport, in the case of *Ex parte Lange*, 18 Wall., 163. So it was held by this court in *Bigelow* v. *Forrest*, 9 Wall., 351, that a judgment in a confiscation case, condemning the fee of the property, was void for the remainder, after the termination of the life estate of the owner. To the objection that the decree was conclusive that the entire fee was confiscated, Mr. Justice Strong, speaking the unanimous opinion of the court, replied: 'Doubtless a decree of a court, having jurisdiction to make the decree, cannot be impeached collaterally; but, under the Act of Congress, the district court had no power to order a sale which should confer upon the purchaser rights outlasting the life of French Forrest (the owner). Had it done so, it would have transcended its jurisdiction.' *Bigelow* v. *Forrest*.

"So a departure from established modes of procedure will often render the judgment void; thus, the sentence of a person charged with felony, upon conviction by the court, without the intervention of a jury, would be invalid for any purpose. The decree of a court of equity upon oral allegations, without written pleadings, would be an idle act, of no force beyond that of an advisory proceeding of the chancellor. And the reason is that the courts are not authorized to exert their power in that way.

"The doctrine stated by counsel is only correct when the court proceeds, after acquiring jurisdiction of the cause, according to the established modes governing the class to which the case belongs, and does not transcend, in the extent or character of its judgment, the law which is applicable to it. The statement of the doctrine by Mr. Justice Swayne, in the case of *Cornett* v. *Williams*, reported in the 20th

of Wallace, is more accurate. 'The jurisdiction,' says the justice, 'having attached in the case, everything done within the power of that jurisdiction, when collaterally questioned, is held conclusive of the rights of the parties, unless impeached for fraud.' 20 Wall., 250.

"It was not within the power of the jurisdiction of the district court to proceed with the case so as to affect the rights of the owner after his appearance had been stricken out, and the benefit of the citation to him thus denied. For jurisdiction is the right to hear and determine; not to determine without hearing."

While the court will not review controverted evidence, for the purpose of determining whether the finding of the Commission as to discrimination is erroneous, and while, in that sense, discrimination is a question of fact, the Commission, however, will not be permitted to characterize as discrimination something which, in law, does not amount to discrimination. See particularly *Philadelphia & Reading Ry.* v. *United States*, 240 U. S., 334. See also: *Interstate Commerce Commission* v. *Louisville & N. R. Co.*, 227 U. S., 88, 91; *United States* v. *Louisville & N. R. Co.*, 235 U. S., 314, 321; *Interstate Commerce Commission* v. *Illinois C. R. Co.*, 215 U. S., 452, 470; *Interstate Commerce Commission* v. *Union P. R. Co.*, 222 U. S., 541, 547.

And in removing discrimination, the Commission is limited to what directly affects interstate commerce. It may not disturb intrastate matters which affect interstate commerce remotely, indirectly, or collaterally. *Chicago, M. & St. P. R. Co.* v. *State Public Utilities Commission, supra.*

The carriers in this case invoke, as the foundation of their bill, the order of the Commission. It is an order the affirmative command of which is directed against the carriers. There is no affirmative command against the

State's Attorney of Cook County or any other defendant. The carrier is given the right to maintain suit to set aside the affirmative command of the Commission. *Procter & Gamble Co.* v. *United States, supra.* The Interstate Commerce Commission takes the position (Rec., 96) that the State's Attorney of Cook County has no standing in any court to attack the order of the Commission.

Certainly, the defendants in the original bill, under the most fundamental principles of equity, are entitled to make any attack upon this order, which the carriers could have made if, in good faith, they had challenged its validity. This is not for the purpose of setting aside the order, as such, but for the purpose of determining whether the carriers have any standing in a court of equity.

V.

IF DEFENDANTS TO THE ORIGINAL BILL MAY NOT MAKE THE SAME ATTACK UPON THE ORDER AS IS OPEN TO THE CARRIERS, THE INTERSTATE COMMERCE COMMISSION AND THE UNITED STATES ARE INDISPENSABLE PARTIES, AND THE SUIT FAILS WITHOUT THEIR PRESENCE.

In our brief on the cross appeal (No. 448), we have presented our reasons for asserting that the District Court for the Northern District of Illinois should have entertained jurisdiction over the Interstate Commerce Commission and the United States and have made a decree in which the rights of all parties were finally settled. If, however, the District Court for the Northern District of Illinois does not have jurisdiction over the Interstate Commerce Commission and the United States, and if the defendants to the original bill do not have the right to make the same attack on the order of the Commission, that the carriers could have made, it inevitably follows,

under the most fundamental equity rules, that the suit of the complainants fails for want of indispensable parties. The rule is so well established that reference to the cases is all that is required. *Garzot* v. *DeRubio,* 209 U. S., 283, 297; *Minnesota* v. *Northern Securities Co.,* 184 U. S., 199, 235; *California* v. *Southern P. Co.,* 157 U. S., 229, 249-251; *Shields* v. *Barrow,* 17 How., 130, 140; *Railroad Co.* v. *Orr,* 18 Wall., 471, 473; *Bogart* v. *Southern P. Co.,* 228 U. S., 137, 147.

Respectfully submitted,

EDWARD J. BRUNDAGE,
JAMES H. WILKERSON,
GEORGE T. BUCKINGHAM,
Solicitors for Appellees in Case No. 416.

No. 446. No. 448.

In the Supreme Court of the United States.

OCTOBER TERM, 1917.

No. 446.

ILLINOIS CENTRAL RAILROAD COMPANY ET AL., APPELLANTS,

v.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS ET AL., APPELLEES.

No. 448.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS ET AL., APPELLANTS,

v.

THE UNITED STATES, INTERSTATE COMMERCE COMMISSION ET AL., APPELLEES.

BRIEF FOR THE INTERSTATE COMMERCE COMMISSION.

SUBMITTED BY JOINT,
Counsel for the Interstate Commerce Commission.

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In the Supreme Court of the United States.

OCTOBER TERM, 1917.

ILLINOIS CENTRAL RAILROAD COMPANY et al., appellants. *v.* STATE PUBLIC UTILITIES COMMISSION OF Illinois et al., appellees.	No. 416.
STATE PUBLIC UTILITIES COMMISSION OF Illinois et al., appellants, *v.* THE UNITED STATES, INTERSTATE COMmerce Commission et al., appellees.	No. 448.

BRIEF FOR THE INTERSTATE COMMERCE COMMISSION.

STATEMENT OF THE CASE.

1. *Subject matter of these suits.*

The subject matter of these suits is an order of the Interstate Commerce Commission, hereinafter called the Commission, of October 17, 1916, made and entered in a proceeding brought by The Business Men's League of St. Louis, a corporation created under the laws of the State of Missouri and having its residence in the city of St. Louis, Missouri, against various common carriers operating lines of railroad between interstate points and points within the State of Illinois. The Chicago Association of Commerce, the State Public

Utilities Commission of Illinois, the State of Illinois and its Attorney General, and others intervened on behalf of the defendant carriers. The Keokuk Industrial Association intervened on behalf of complainant.

2. *The complaint in the proceedings before the Commission.*

The complaint filed by The Business Men's League of St. Louis alleged that the passenger fares and freight rates between St. Louis, Missouri, and points in Illinois are unjust and unreasonable, unduly discriminatory, prejudicial, and unlawful, in violation of sections 1, 2, 3, and 4 of the Act to regulate commerce.

The Keokuk Industrial Association in its intervening petition prayed for the same relief as that which might be granted to St. Louis. The Chicago Association of Commerce, in its intervening petition, averred that the granting of the relief desired would create unjust discrimination against Chicago if, as a consequence, the passenger fares within the State of Illinois should be increased. The State Public Utilities Commission of Illinois in its intervening petition alleged that the present intrastate passenger fares in Illinois, which are fixed by act of the Legislature of Illinois at a maximum of 2 cents a mile, are not discriminatory as alleged by complainant when compared with the rates between St. Louis and Illinois points, and that the Commission has no authority to fix transportation charges for carriage of passengers wholly

within the State of Illinois. The East Side Manufacturers Association, representing certain interests in East St. Louis, Madison, and Granite City, Illinois, in its intervening petition protested against any action which would result in an increase in the charges for intrastate transportation in Illinois.

Although both passenger fares and freight rates were included in the complaint, the report and order of the Commission and its supplemental report and order involved in this suit deal only with the question of passenger fares, the matter of freight rates being expressly reserved for a subsequent report.

3. *The findings of the Commission in the original report (41 I. C. C. 13).*

The Commission in its report of July 12, 1916, 41 I. C. C. 13 (Record, p. 31), found the then existing interstate charges averaging 2.5 cents per mile to be unreasonable to the extent that they exceeded 2.4 cents per mile, which interstate charges, plus a reasonable bridge toll, the Commission found to be reasonable. The Commission further found an undue prejudice to localities and interstate traffic by reason of the Illinois intrastate charges being upon a lower basis per mile than the interstate charges.

4. *The order of July 12, 1916.*

By an order entered on the same day, July 12, 1916, (Record, p. 48) effective October 16, 1916, the appellant carriers were required to establish and maintain passenger fares between St. Louis and Keokuk and points in Illinois upon a basis not in

excess of 2.4 cents per mile, bridge tolls excepted; to establish and maintain passenger fares between St. Louis and Illinois points not in excess of the fares contemporaneously maintained between East St. Louis and the same Illinois points by more than a reasonable bridge toll; to establish and maintain between Keokuk and points in Illinois passenger fares not in excess of the fares contemporaneously maintained between points in Illinois directly opposite Keokuk and the same Illinois points by more than a reasonable bridge toll; to establish and maintain passenger fares between St. Louis and Keokuk, respectively, and points in Illinois not in excess of the fares contemporaneously maintained between Chicago and the same Illinois points where the distances are approximately equal, bridge tolls excepted; and to establish and maintain intrastate passenger fares on the reasonably direct lines of appellant carriers lying in the territory intermediate to Chicago on the north and St. Louis and Keokuk on the south and southwest on a basis per mile which is not less than the basis per mile for the transportation of interstate passengers between St. Louis and Keokuk and Illinois points located in the general territory first described and reached by reasonably direct routes of the appellant carriers herein, bridge tolls excepted.

5. *The orders of September 6, 1916, and of October 11, 1916.*

By order entered September 6, 1916, the effective date of the original order of July 12, 1916, was postponed until November 16, 1916. By order entered October 11, 1916, the effective date of the order of July 12, 1916, as amended by the order of September 6, 1916, was postponed until further order of the Commission.

6. *The supplemental report and order of the Commission of October 17, 1916.*

On October 17, 1916, the Commission issued a supplemental report, 41 I. C. C. 503 (Record, p. 53), in which it found that any contemporaneous adjustment of passenger fares between St. Louis and Keokuk, respectively, and Illinois points and between points within Illinois generally, which would permit the defeat of the St. Louis, Keokuk, East St. Louis, and any other eastside point fares, through the maintenance of lower state fares to and from interior Illinois points intermediate to a passenger's ultimate destination, and which would permit the continuance of the undue prejudice against St. Louis and Keokuk and continue to burden interstate commerce, would be unduly prejudicial within section 3 of the Act to regulate commerce. The order entered on the same date vacated the Commission's original order of July 12, 1916, and substituted therefor the order effective January 15, 1917, which is involved in these proceedings and which is set forth

in full in the record at page 55. For convenience this order may thus be summarized:

1. Prohibits passenger fares between St. Louis, Missouri, and points in Illinois of more than 2.4 cents per mile, bridge tolls excepted, or higher than the fares contemporaneously exacted for the transportation of passengers between East St. Louis and the same Illinois points, or fares constructed upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained between Illinois points intermediate between St. Louis and these points in Illinois.

2. Prohibits fares between St. Louis and points in Illinois the basis of which per mile, bridge tolls excepted, is higher per mile than the fares contemporaneously maintained between Chicago and the same Illinois points.

3. Prohibits carriers applying to the transportation of passengers between St. Louis, Missouri, and points in Illinois fares upon a basis in excess of the fares between East St. Louis and the same Illinois points by more than a reasonable bridge toll or upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained between Illinois points intermediate between St. Louis and the same points in Illinois.

4. The carriers are required to abstain from undue preferences and the unreasonable prejudices and disadvantages found to result from the contemporaneous maintenance between Illinois points

of passenger fares which in combination with other fares required or permitted by this order would produce the discrimination against interstate commerce and the undue preferences in favor of intrastate commerce condemned in the report.

The same order was made as to Keokuk, Iowa.

7. *The bills of complaint filed before the district court.*

Preliminary to complying with this order of the Commission, various carriers defendants in the complaint before the Commission (41 I. C. C. 13), filed bills of complaint and supplemental bills before the District Court of the United States for the Northern District of Illinois, joining as parties defendant the State Public Utilities Commission of Illinois, together with its individual members, the Attorney General of Illinois and the attorneys of the various counties through which each railroad operates, praying that the said State Public Utilities Commission of Illinois, together with its individual members, and the Attorney General of Illinois and the attorneys of the various counties through which each railroad operates, be enjoined and restrained from beginning any civil suit or suits or criminal proceedings or prosecutions to prevent the plaintiffs from obeying the order of the Commission of October 17, 1916, or from beginning or engaging in any civil suit or suits, criminal proceedings or prosecutions for the purpose of enforcing any penalties for failure to

comply with the statutes of the State of Illinois, for or on account of anything done or to be done by the plaintiffs in publishing, filing, and posting the tariffs required by the order of the Commission, and the establishment, maintenance and collection of the fares provided for in said order.

8. *Proceedings in district court.*

The bills and supplemental bills were answered by the state authorities admitting their purpose and intention to prosecute the carriers for any violation of the Illinois 2-cent passenger fare law, and averring that said statute was in full force and effect, and alleging that the order of the Commission of October 17, 1916, was void because it was beyond the power of the Commission to make; and because there was no substantial evidence in the proceedings before the Commission to support such order. The answers prayed that they be taken as cross bills against the carriers and the United States and the Commission; that the order of the Commission of October 17, 1916, be set aside and annulled, and that the parties thereto be perpetually enjoined and restrained from complying with, enforcing, or attempting to enforce, the provisions of said order. (Record, p. 76.) The Business Men's League of St. Louis, the complainant before the Commission on whose petition the order was made, was not made a party to the proceeding before the District Court for the Northern District of Illinois.

The carriers filed replications to the answers, alleging that the District Court of the United States for the Northern District of Illinois was without jurisdiction to suspend, set aside, annul or enjoin the order of the Commission of October 17, 1916. (Record, p. 89.)

The Commission filed a plea and answer, setting up that the court was without jurisdiction to suspend, set aside, annul, or enjoin the order of the Commission of October 17, 1916, and affirming the validity, finality, and conclusiveness of said order. (Record, p. 95.)

The United States filed a special appearance and answer, alleging that the original bills constituted suits to enforce an order of the Commission and that the cross bills of the Illinois authorities were suits to suspend or set aside an order of the Commission, and that the District Court of the United States for the Northern District of Illinois was without jurisdiction to entertain either the original and supplemental bills or the answers in the nature of cross bills. (Record, p. 101.)

A motion to strike out certain parts of the answers of the Illinois authorities in the nature of cross bills, whereby the invalidity of the order of the Commission was alleged, was filed by the carriers.

After hearing and argument on the motion to strike out, and application for a temporary injunction, and motions to dismiss, a majority of the judges, Judges Evans and Carpenter, were of

the opinion that the original bills did not constitute suits to enforce an order of the Commission, and denied the motion to dismiss the original bills for want of jurisdiction. They were further of the opinion that the answers in the nature of cross bills were suits to annul, suspend, or set aside an order of the Commission, and that the District Court of the United States for the Northern District of Illinois was without jurisdiction so to do. The court thereupon ordered that the portion of the answers attacking the order of the Commission be stricken out, and further ordered that the cross bills be dismissed as to the United States and the Commission. The motion for a temporary injunction, prayed for by the carriers, was denied, without prejudice to the right of the carriers to renew their application if the final disposition of the case was not reached on or before January 15, 1917. (Record, p. 114.)

The causes then come on for final hearing before the Hon. Kenesaw M. Landis, district judge.

The term of the Attorney General of Illinois, who was a party to the original bill, having expired, a second supplemental bill was filed by the carriers making his successor a party defendant to the suit. (Record, p. 128.) He filed a special appearance and motion to dismiss on the ground that the court was without jurisdiction on the original and supplemental bills, for the reason that they constituted suits to enforce an order of the

Commission. (Record, p. 125.) This motion was denied. (Record, p. 120.) He thereupon filed an answer reserving the right to object that the court was without power to hear and determine said causes. (Record, p. 138.)

By leave of court and over the objection of the carriers, the Illinois authorities, parties defendant to the suits, were given leave to amend their answers by inserting therein those parts which had been previously stricken out by the three-judge court. (Record, p. 146.)

The causes were then heard upon evidence offered by the carriers and the Illinois authorities. The trial court, Hon. Kenesaw M. Landis, on January 13, 1917, ordered the bills dismissed for want of equity (Record, p. 147), holding that the order of the Commission of October 17, 1916, was beyond the power of the Commission. (Record, pp. 184–190.)

From this decree the carriers appealed. (Case No. 416.) From the decree dismissing their cross bills and from the decree dismissing the suits as to the United States and the Interstate Commerce Commission, the Illinois authorities appealed (Case No. 448.) By agreement the several suits were consolidated for appeal.

In order that this Court may have before it all of the facts, it is proper that the subsequent court proceedings should be mentioned. These are all matters of public record and, it is presumed, will

be freely admitted. In any event, the Court may take judicial notice of them. On April 2, 1917, the Commission filed a petition in the District Court of the United States for the Eastern Division of the Eastern District of Missouri, asking for a mandatory decree compelling the carriers to observe the order of October 17, 1916. The Business Men's League of St. Louis, now the St. Louis Chamber of Commerce, intervened and joined in the petition of the Commission. On May 1 the cause was heard before Circuit Judge Hook and District Judges Dyer and Munger, upon the petition of the Commission and answer of the carriers, setting up the proceedings in the District Court for the Northern District of Illinois. After argument the court held the order of the Commission valid and commanded the carriers to obey the same within 30 days. The carriers not having obeyed the decree of the court within the prescribed time, the Commission asked for a rule on the disobeying carriers to show cause why they should not be punished for contempt of court. The carriers appeared and gave as a reason for not obeying the decree requiring them to obey the order of the Commission that they were enjoined by a state court in Illinois from obeying the order of the Commission. District Judge Dyer ordered the carriers to obey the decree within five days. This order was entered on June 8, 1917. The carriers thereupon elected to remove the discrimi-

nation by increasing the state rates to the level of the interstate rates found to be reasonable by the Commission. The state authorities cited the carriers in the state court that issued the injunction against them to show cause why they should not be punished for contempt. This proceeding has been continued until this cause shall have been determined by this Court.

The carriers now charge 2.4 cents interstate between St. Louis and Illinois points, plus bridge tolls, and 2.4 cents within Illinois, issuing for the latter traffic coupon tickets whereby they agree to refund 0.4 cent per mile in the event that the order of the Commission, requiring the discrimination against localities of other States and interstate commerce to be removed, is eventually held invalid by this Court.

9. *Résumé:* The Commission is interested in these proceedings only in so far as the validity of its order of October 17, 1916, is involved. It contends that the order as drawn is a valid exercise of the powers conferred upon the Commission by the Act to regulate commerce, and that there is no ground in law or in equity upon which to set aside, annul, or enjoin said order in whole or in part.

ARGUMENT.

I.

THE SPECIAL COURT OF THREE JUDGES DID NOT ERR IN HOLDING THAT THE ORDER OF THE COMMISSION COULD ONLY BE ATTACKED IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DIVISION OF THE EASTERN DISTRICT OF MISSOURI.

(1) The sole complainant in the proceeding before the Commission (41 I. C. C. 13), was The Business Men's League of St. Louis, a corporation created and existing under the laws of the State of Missouri, with its domicile and residence in the city of St. Louis, Missouri. The order of October 17, 1916, in controversy, was made upon the petition or complaint of that complainant.

It is axiomatic that the Government must give its consent before it can be sued, and if it consents it can further prescribe the conditions upon which suit may be brought.

By the act of Congress creating the Commerce Court, 36 Stat. 539, 540, 543, it is provided that the Commerce Court—

> shall have the jurisdiction possessed by circuit courts of the United States and the judges thereof * * *, over all cases of the following kinds: * * *
>
> Second. Cases brought to enjoin, set aside, annul, or suspend in whole or in part any order of the Interstate Commerce Commission.

> *The jurisdiction* of the Commerce Court over cases of the foregoing classes *shall be exclusive;* * * *. [Italics ours.]
>
> SEC. 4. That all cases and proceedings in the Commerce Court * * * shall be brought by or against the United States, * * *.

By the same statute the Commission is given the right to intervene. By subsequent act of Congress, 38 Stat. 219, the Commerce Court was abolished—

> and the jurisdiction vested in said Commerce Court by said Act is transferred to and vested in the several district courts of the United States, * * *.
>
> The venue of any suit hereafter brought to enforce, suspend, or set aside, in whole or in part, any order of the Interstate Commerce Commission shall be in the judicial district wherein is the residence of the party or any of the parties upon whose petition the order was made, except that where the order does not relate to transportation or is not made upon the petition of any party, the venue shall be in the district where the matter complained of in the petition before the Commission arises.

In accordance with the provisions of this statute, the venue of any suit involving the validity of the order of the Commission of October 17, 1916, must be in the District Court of the United States for the Eastern Division of the Eastern District of Missouri, since that order was made upon the pe-

tition of a party whose residence is in that judicial district.

It follows that the District Court of the United States for the Eastern Division of the Eastern District of Missouri alone has jurisdiction to set aside, annul, or enjoin the Commission's order of October 17, 1916, and that the District Court of the United States for the Northern District of Illinois is without authority to question the validity of that order.

The decree of a court can not be attacked collaterally except for lack of jurisdiction over the subject matter or the parties, or for fraud. Otherwise the decree must be accepted as final and conclusive. *Moore* v. *Town Council of Edgefield,* 32 Fed. 498; *Manson* v. *Duncanson,* 166 U. S. 533, 547–8. This immunity from collateral attack extends also to special tribunals through which the authority of the State is exercised. *McLeod* v. *Receveur,* 71 Fed. 455. An order of the Commission is likewise immune from collateral impeachment except for lack of jurisdiction or for fraud. *Eastern Texas R. Co. et al.* v. *Railroad Commission of Texas et al.,* 242 Fed. 300, 305. The Commission's jurisdiction over the subject matter of its order of October 17, 1916, has been sustained by this Court in the *Shreveport Case,* 234 U. S. 342, and in *American Express Co.* v. *State of South Dakota,* 244 U. S. 617.

We submit, therefore, that Circuit Judge Evans and District Judge Carpenter did not err in hold-

ing that the order of the Commission here involved could only be attacked in the District Court of the United States for the Eastern Division of the Eastern District of Missouri, and that District Judge Landis did err in holding the order invalid in a proceeding in the District Court of the United States for the Northern District of Illinois.

The Business Men's League of St. Louis, upon whose petition the Commission made the order, was not even a party in the Chicago proceedings, and if the Chicago court had jurisdiction to annul the order of the Commission, we would have the situation of the rights of The Business Men's League of St. Louis being adjudicated without it having had an opportunity to be heard.

Congress having enacted that an order of the Commission may be annulled or set aside only by suit brought in the district where the complainant before the Commission resides, to say that any other court in any other district may declare an order of the Commission void would be to nullify the act of Congress.

(2) There is an exception to the venue statue which reads—

> except that where the order does not relate to transportation or is not made upon the petition of any party—

and counsel for appellants in 448 give much attention to the construction of the words and phrases used in this exception. But the exception

has no application to this case. The order in question *does relate to transportation.* It deals with passenger fares covering passenger transportation, and, therefore, the exception and phraseology of it can not be construed to give the District Court for the Northern District of Illinois jurisdiction of an order made upon the petition of The Business Men's League of St. Louis. The purpose of Congress in enacting the venue statute is clear; it intended that all orders referring to transportation should be brought under judicial cognizance for the purpose of determining their validity and enforcibility only in the judicial district where the interested and therefore watchful petitioner before the Commission resides.

The order in question relates to transportation and was made upon the petition of The Business Men's League of St. Louis, whose residence is not in the Northern District of Illinois; and is none the less made upon that petition, because, in order to give the petitioner the relief to which it is entitled, the Commission found it necessary to give further relief, without which the relief prayed for by the petitioner would be of no value.

Counsel for appellants in 448 argue that the relief granted by the supplemental order was not upon the petition of The Business Men's League of St. Louis, for the reason that the order is broader than the petition. The complaint filed

with the Commission by The Business Men's League of St. Louis, together with the Keokuk Industrial Association's intervening petition, put in issue the reasonableness of the interstate passenger fares between St. Louis and Keokuk and points in Illinois, together with the discriminatory relationship of the state and interstate passenger fares, " in violation of sections 1, 2, and 3 of the Act." There can be no doubt, therefore, that the complaint as framed is sufficiently broad to warrant the findings of the Commission in its original report and supplemental report and to justify the making of the order of October 17, 1916.

In no view can the order be said to be broader that the *subject matter* of the petition, which is the undue prejudice to localities and to interstate traffic resulting from intrastate passenger fares in Illinois.

Mr. Justice White, now Chief Justice, speaking for the Court in *Cincinnati, H. & D. Ry. Co.* v. *Int. Com. Com.,* 206 U. S. 142, 149, said:

> We think the Commission, in making an investigation on the complaint filed by the Procter & Gamble Company, had the power, in the public interest, disembarrassed by any supposed admissions contained in the statement of complaint to consider the whole subject and the operation of the new classification in the entire territory, as also how far its going into effect would be just

and reasonable, would create preferences or engender discrimination; in other words, its conformity to the requirements of the Act to regulate commerce.

The fact that the Commission in the instant case took into consideration the effect on interstate traffic of the act of the Illinois Legislature, fixing passenger fares at the maximum rate of 2 cents for the entire State, did not make it any the less a proceeding under the petition filed with the Commission. The Business Men's League of St. Louis called the attention of the Commission to these intrastate passenger fares and the effect upon St. Louis; Keokuk intervened and called the attention of the Commission to the effect of such intrastate passenger fares upon Keokuk. The extension of the inquiry was entirely natural and germane to the petition which had been filed. The resulting order, therefore, refers to transportation and was made upon the petition of a party entitled to file a petition before the Commission. It follows that the validity of this order can only be attacked in the district where the complainant before the Commission resides and that the District Court for the Northern District of Illinois has no jurisdiction in the premises.

II.

THE APPELLANTS IN 448 MAY NOT LAWFULLY SEEK IN ANY COURT TO ANNUL THE ORDER OF THE COMMISSION UNTIL THEY SHALL HAVE EXHAUSTED THEIR REMEDIES BEFORE THE COMMISSION UNDER SECTION 13 AND SECTION 16a OF THE ACT TO REGULATE COMMERCE.

(1) The appellants in 448 have never taken any of the steps, which Congress prescribed and commanded to be taken, before they may seek to annul the order of the Commission in court proceedings. If the appellants in 448 conceive themselves aggrieved by the order of the Commission, the procedure for redress, as provided by section 13 of the Act, as amended June 18, 1910, is as follows:

> That any * * * association, or any mercantile, * * * or manufacturing society or other organization, or any body politic or municipal organization, * * * complaining of anything done or omitted to be done by any common carrier subject to the provisions of this Act, in contravention of the provisions thereof, may apply to said Commission by petition, * * * it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

Until appellants in 448 pursuant to the provisions of section 13 shall have accorded the Commission an opportunity to investigate the matters of which they complain and to enter thereafter

such order as may be appropriate, it is beyond the jurisdiction of any court to entertain a petition from appellants herein attacking the order of the Commission. Appellants in 448 still may file a petition under section 13 before the Commission, but until they shall have availed themselves of the privilege they can not, under the many decided cases of this Court, lawfully ask any court to annul the order of the Commission and in effect to make an order with respect to the relationship of interstate and intrastate passenger fares, such as the Commission has not made and which it has declined to make.

In *Int. Com. Com.* v. *Chicago, R. I. & P. Ry. Co.*, 218 U. S. 88, Mr. Justice McKenna, speaking for the Court, said, page 110:

> Whether other persons, cities or areas of territory have grounds of complaint, the way is open by application to the Commission for inquiry and remedy. In that inquiry, many elements may enter upon which the judgment of the Commission should first pass, and of which the courts should not be called upon in advance to intimate an opinion. The reasons for this we have indicated, and they will be found at length in the cases which we have cited.

Cities or localities desiring to complain of discrimination produced by an order of the Commission have a remedy, but that remedy is primarily under section 13 of the Act, not by proceedings in the courts.

In *United States* v. *Merchants & Manufacturers Traffic Association of Sacramento,* 242 U. S., 178, certain organizations and localities attempted to go into court to annul an order of the Commission without first seeking redress before the Commission under section 13. This Court, through Mr. Justice Brandeis, at page 188, said:

> They mistook their remedy. To permit communities or shippers to seek redress for such grievances in the courts would invade and often nullify the administrative authority vested in the Commission; and, as this case illustrates, the attempt of the court to remove some alleged unjust discriminations might result in creating infinitely more.

Whether there is undue prejudice in one place and not in another, whether discrimination in one locality is greater or less than it is elsewhere, whether there is undue prejudice against interstate traffic in one instance while there is none at all against St. Louis as a locality, these and like questions present transportation problems peculiarly within the province of the Commission to determine. These questions of fact are ascertainable not by a court, but by the Commission. Whether undue prejudice against St. Louis exists with respect to fares between Wilmette, Illinois, and Evanston, Illinois, and the effect of such undue prejudice on interstate traffic is for the Commission to determine, and in substituting his judgment for the

judgment of the Commission on such questions of fact within the province of the Commission District Judge Landis exerted an authority not conferred upon the district court by the statute.

In *Loomis* v. *Lehigh Valley R. Co.*, 240 U. S. 43, this Court, through Mr. Justice McReynolds, at page 50, said:

> An adequate consideration of the present controversy would require acquaintance with many intricate facts of transportation * * *. In the last analysis the instant cause presents a problem which directly concerns rate-making and is peculiarly administrative. * * * The uncertainty and confusion which would necessarily result, is manifest. Ample authority has been given the Commission, in circumstances like those here shown, to administer proper relief, and in connection therewith to approve some general rule of action.

(2) Neither did appellants in 448, after the decision in the original proceedings before the Commission, under section 16a, make application for "rehearing of the same or any matter determined therein." That remedy also is still open to them, for section 16a provides that "any party thereto may at any time make application for rehearing of the same." A motion for rehearing before the Commission in the proceeding resulting in the order complained of is a prerequisite to any court entertaining a suit to annul such order of the Commission. *Louisville & N. R. Co.* v. *United*

States, 218 Fed. 89. The interests of uniformity require that the remedies before the Commission be exhausted before relief may be sought in the courts. Congress manifestly did not intend to divide between the Commission and the courts jurisdiction over matters of rates.

Appellants in 448 have brought into this Court of last resort these transportation questions of fact without using the remedies before the Commission given by the Act; and which questions should be determined, if any court has jurisdiction to determine them in advance of action by the Commission, by the three-judge court in the Eastern Division of the Eastern District of Missouri. Appellants in 448 should be remanded to the relief, if they are entitled to any relief, in the orderly way which is essential to the preservation of uniformity; under section 13 of the Act by proceeding before the Commission; or under section 16a by application for a rehearing before the Commission; or in the special three-judge court in the Eastern Division of the Eastern District of Missouri created for hearing such an application and given by statute an exclusive jurisdiction, which that court has had, so far, no opportunity to exercise at the instance of appellants in 448.

III.

THE ORDER OF THE COMMISSION IS VALID.

(1) Interstate carriers may not lawfully transport intrastate traffic at a lower rate than interstate traffic, under like circumstances and conditions, after the Commission has found that such difference in rates results in undue prejudice against localities of other States and interstate commerce.

Pursuant to the authority conferred by paragraph 3 of section 8 of Article I of the Constitution of the United States "to regulate commerce with foreign nations and among the several States," Congress provided in section 3 of the Act to regulate commerce, as amended:

> That it shall be unlawful for any common carrier subject to the provisions of this Act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

And this Court has decided that this section of the Act applies equally when the undue prejudice to the interstate shipper results from the contemporaneous maintenance of preferential *state* rates, as well as when it results from the contempo-

raneous maintenance of preferential *interstate* rates. *Houston, East & West Texas Ry. Co.* v. *United States,* 234 U. S. 342, hereinafter referred to as the *Shreveport Case.*

The Commission did not attempt by its order of October 17, 1916, to prescribe reasonable maximum rates as such for the transportation of passengers wholly within the State of Illinois. The authority exercised was as to the *relationship* between the state rates and the interstate rates and in determining whether such relationship results in undue prejudice to localities of other States and constitutes an undue burden upon interstate commerce. Whenever an interstate carrier, either voluntarily or under compulsion by a state commission or state statute, maintains intrastate charges which, when compared with interstate charges contemporaneously in effect, result in unduly restricting the free flow of interstate commerce, the Commission has ample jurisdiction to remedy this discrimination. As this Court said in the *Shreveport Case, supra,* page 354, "the power to deal with the relation between the two kinds of rates, as a relation, relies exclusively with Congress."

The Commission found 2.4 cents to be a reasonable interstate rate, and ordered the carriers to remove the undue prejudice resulting at St. Louis, Keokuk, and other localities of other States by reason of a lower intrastate rate in Illinois. The carriers had the option of removing the discrimi-

nation by decreasing the interstate rate to the level of the intrastate rate, by so increasing the one and decreasing the other as to reach a common level, by increasing the state rate to the level of the interstate rate found to be reasonable by the Commission, or by decreasing both below the level of the lower rate. It was of no interest to the Commission which of these ways the carriers should select to comply with the order. The carriers elected to increase the state rate to the level of the interstate rate. This they had the right to do. *Shreveport Case*, 234 U. S. 342, 350, 360. Having found the interstate rate of 2.4 cents reasonable, an intrastate rate of 2 cents under like circumstances and conditions imposed a burden upon interstate commerce that the Commission found unduly prejudicial.

An interstate carrier may not lawfully have one rate for intrastate traffic and another and higher rate for interstate traffic, after a finding by the Commission that undue prejudice against interstate commerce results from the rates so maintained. To say that a carrier must do this because of a state statute would be to admit that a State may regulate interstate commerce.

If the order of the Commission finding an interstate rate of 2.4 cents a mile reasonable, and the state statute fixing 2 cents per mile as a maximum, are both effective, then if the carriers elect, as they have in this case, to charge the maximum interstate rate, the highways of interstate com-

merce between St. Louis, Missouri, and Illinois points are closed to interstate traffic on equal terms with intrastate traffic. A passenger from Bloomington, Illinois, to Chicago, Illinois, pays 2 cents a mile, while a passenger from St. Louis to Chicago by way of Bloomington would have to pay 2.4 cents a mile from Bloomington to Chicago for the same service under like circumstances and conditions. A passenger between any two points in Illinois on an interstate railroad, beginning and ending his journey within Illinois, pays 2 cents a mile, but if that passenger should come from St. Louis or be going to St. Louis, he would have to pay four-tenths of a cent per mile more for each mile traveled within the State of Illinois, merely because he is going to or coming from another State. This, we submit, is no more permissible under the Constitution than a state tax of four-tenths of a cent per mile for each mile traveled within Illinois by each passenger coming from or going to another State; it is no more permissible than a state license tax to sell goods within a State which is fixed at one rate for goods manufactured within the State and at another and higher rate if the goods come from another State. It was the purpose of the Federal Constitution to wipe out state lines on interstate highways, so far as commerce may be concerned, and to make commerce national instead of local. If a difference in rates could be based upon state lines, the result would be that these servants

of a national commerce would be localized and chained to intrastate commerce.

The States delegated certain of their sovereign functions to the General Government. The exercise by the General Government of the powers so delegated is not an interference with the rights of the States, but in recognition of the rights of the States as expressed in the delegation of power. Among other powers delegated to the General Government by the States is the power to regulate commerce among the States. To deny to a State the privilege of having customhouses upon its borders is not to deny any right of that State, but to preserve the rights of all the States to freedom of commerce between the States. If one State may have a customhouse upon its border taxing imports from other States, every other State may do the same thing, with the result that the commerce of each State might be confined within the borders of that State. If any State could rightfully discriminate against interstate commerce, then it would be within the power of any State to nullify the authority granted to the General Government by all the States to regulate commerce among the States. If Illinois could discriminate against the commerce of Missouri, then each State could discriminate against the commerce of every other State, resulting in the destruction of that free flow of commerce which the States intended to guarantee to each other in the formation of the Constitution.

It could hardly be claimed that a state statute may fix a maximum interstate rate, for the maximum interstate rate must be that found to be reasonable by the Commission under the Act to regulate commerce. This being so, the state statute of Illinois in effect provides that carriers must transport passengers beginning and ending their journey within the State of Illinois at a maximum of 2 cents per mile, but passengers destined to or coming from other States into Illinois may be charged a maximum of 2.4 cents a mile for each mile traveled in Illinois. Is such discrimination against interstate commerce and localities of other States lawful after the Commission has found it to be unjust?

To argue that interstate carriers may so discriminate because of a state statute is to argue that a State may limit and burden the flow of interstate commerce among the States. There would then arise a commercial condition more unbearable than that which obtained prior to the Constitution, when each State sought to devise methods by which its commerce could be localized. What would the national power to regulate commerce among the States be worth if interstate commerce could be discriminated against in such a fashion?

Interstate carriers are servants of a national commerce. They may not carry intrastate traffic at one rate and interstate traffic at another and

higher rate if the Commission finds that such difference in rates results in undue prejudice to interstate traffic, as has been found in this case. Since the carriers could not of their own accord transport intrastate traffic at a lower rate than interstate traffic, under like circumstances and conditions, after the Commission has found that such difference in rates results in undue prejudice to interstate traffic, they may not be compelled to so discriminate against interstate commerce by a state statute.

The view that an undue prejudice to interstate commerce may not be removed by federal authority, because it results from intrastate rates prescribed by state authority and applied to the transportation of intrastate traffic, is based upon an erroneous theory.

In the *Second Employers' Liability Cases*, 223 U. S., page 1, it was contended that the Employers' Liability Act was unconstitutional because it made an interstate carrier liable for an injury inflicted upon an employee engaged in interstate commerce by an employee engaged in intrastate commerce. And in reply to this contention the Court, speaking through Mr. Justice Van Devanter, said, page 51:

> But this is a mistaken theory, in that it treats the source of the injury rather than its effect upon interstate commerce, as the criterion of congressional power.

(2) A state statute may not operate upon an intrastate rate in such a manner as in effect will amount to a levy of a discriminatory tax or impost upon interstate commerce and thus prevent its free movement from one State to another.

> Under the Constitution a State may not levy any tax or impost upon commerce from another State. A transportation rate that has been prescribed by, or that is subject to regulation by, a body created by law for that purpose is in essence a tax or impost upon traffic. Here we have one State demanding that the tax upon its traffic shall not be assessed in such manner as to unjustly discriminate against its citizens by or as a result of action of another State, and an adjoining State insisting upon levying the taxes upon commerce in such manner and measure as to give a monopoly of the traffic here considered to the dealers and commercial centers of that State. Concurring opinion of Clark, Commissioner, in *Railroad Commission of La.* v. *St. Louis S. W. Ry. Co.*, 23 I. C. C. 31, 51.

In the *Passenger Cases*, 7 Howard 282, there was involved a statute of New York imposing a tax of 25 cents upon each passenger arriving at the port of New York by coasting vessels. In holding this tax void Mr. Justice McLean said, page 406:

> If this may be done in New York, every other State may do the same, * * *. This would enable a State to establish and enforce a non-intercourse with every other State.

In *Robbins* v. *Shelby County Taxing District,* 120 U. S. 489, there was considered a statute of Tennessee imposing a tax upon all drummers not having a licensed house of business in the taxing district. The tax was held invalid, and the Court said, pages 493–494:

> But in making such internal regulations a State cannot impose taxes upon persons passing through the State, or coming into it merely for a temporary purpose, especially if connected with interstate or foreign commerce; * * *.

In *Crandall* v. *Nevada,* 6 Wall. 35, there was a tax of $1 imposed upon every citizen leaving the State of Nevada by railroad or stage coach. In holding this tax invalid the Court, quoting from the *Passenger Cases, supra,* said, page 49:

> We are all citizens of the United States, and as members of the same community must have the right to pass and repass through every part of it without interruption, as freely as in our own States. And a tax imposed by a State, for entering its territories or harbors, is inconsistent with the rights which belong to citizens of other States as members of the Union, and with the objects which that Union was intended to attain. Such a power in the States could produce nothing but discord and mutual irritation, and they very clearly do not possess it.

In *Steamship Company* v. *Portwardens*, 6 Wall. 31, a tax upon ships entering New Orleans was held invalid, the Court declaring, page 33:

> That the act of the legislature of Louisiana is a regulation of commerce can hardly be doubted. It imposes a tax upon every ship entering the port of New Orleans, to be collected upon every entry. In the case of a steamer plying between that port and ports in adjoining States of Alabama or Texas, it becomes a serious burden, and works the very mischief against which the Constitution intended to protect commerce among the States.

In the *State Freight Tax Case*, 15 Wall. 232, the Court had under consideration a state tax based upon the number of tons of freight hauled by carriers. Such taxation was held invalid. The Court said, page 279:

> If, then, this is a tax upon freight carried between States, and a tax because of its transportation, and if such a tax is in effect a regulation of interstate commerce, the conclusion seems to be inevitable that it is in conflict with the Constitution of the United States.

In *Philadelphia Steamship Co.* v. *Pennsylvania*, 122 U. S. 326, the Court, through Mr. Justice Bradley, in holding that the taxation of *receipts* of an interstate carrier is an act of regulation of commerce, said, pages 336, 337:

> If, then, the commerce carried on by the plaintiff in error in this case could not be

> constitutionally taxed by the State, could the fares and freights received for transportation in carrying on that commerce be constitutionally taxed? If the State can not tax the transportation, may it, nevertheless, tax the fares and freights received therefor? Where is the difference? Looking at the substance of things, and not at mere forms, it is very difficult to see any difference. The one thing seems to be tantamount to the other. It would seem to be rather metaphysics than plain logic for the state officials to say to the company: "We will not tax you for the transportation you perform, but *we will tax you for what you get for performing it.*" Such a position can hardly be said to be based on a sound method of reasoning. [Italics ours.]

It was likewise held in *Galveston Ry. Co.* v. *Texas,* 210 U. S. 217, that a state tax on the gross *income* of an interstate carrier is an interference with the power of Congress over interstate commerce. The Court said, page 227:

> Neither the state courts nor the legislatures, by giving the tax a particular name or by the use of some form of words, can take away our duty to consider its nature and effect. If it bears upon commerce among the States so directly as to amount to a regulation in a relatively immediate way, it will not be saved by name or form. * * *

> We are of opinion that the statute levying this tax does amount to an attempt to regulate commerce among the States.

In *Almy* v. *California,* 24 Howard 169, there was a stamp duty imposed by the State upon bills of lading for gold or silver transported out of the State. The tax was held invalid. The Court said, page 174:

> In the case now before the Court, the intention to tax the export of gold and silver, in the form of a tax on the bill of lading, is too plain to be mistaken. The duty is imposed only upon bills of lading of gold and silver, and not upon articles of any other description. And we think it is impossible to assign a reason for imposing the duty upon the one and not upon the other, unless it was intended to lay a tax on the gold and silver exported, while all other articles were exempted from the charge.

In *Ward* v. *Maryland,* 12 Wall. 418, the Court held a statute invalid that imposed a penalty upon nonresident traders selling goods other than agricultural or manufactured products of Maryland. The Court said, page 431:

> Important as these provisions have been supposed to be, still it is clear that they would become comparatively valueless if it should be held that each State possesses the power in levying taxes for the support of its own government to discriminate against the citizens of every other State of the Union.

In *Inman Steamship Co.* v. *Tinker,* 94 U. S. 238, an act imposing a payment of a percentage per ton on ships entering the harbor was held invalid. The Court said, page 245:

> The commerce clauses of the Constitution had their origin in a wise and salutary policy. They give to Congress the entire control of the foreign and interstate commerce of the country. * * * Wherever such commerce goes, the power of the Nation accompanies it, ready and competent, as far as possible, to promote its prosperity and redress the wrongs and evils to which it may be subjected.

In *People* v. *Compagnie Générale Transatlantique,* 107 U. S. 59, the Court held a New York statute invalid which imposed a tax on alien passengers entering the port. The Court said, page 60:

> It has been so repeatedly decided by this Court that such a tax as this is a regulation of commerce with foreign nations, confided by the Constitution to the exclusive control of Congress, and this Court has so recently considered the whole subject in regard to similar statutes of the States of New York, Louisiana, and California, that unless we are prepared to reverse our decisions and the principles on which they are based, in the cases of *Henderson* v. *Mayor of New York* and *Chy Lung* v. *Freeman,* 92 U. S. 259, 275, there is little to say beyond affirming the judgment of the Circuit Court, which was based on those decisions.

In *Brennan* v. *Titusville,* 153 U. S. 289, the Court held invalid a license tax imposed on agents soliciting orders for goods manufactured in other States, upon the ground that it burdened interstate commerce. The Court said, page 302:

> * * * but we think it must be considered, in view of a long line of decisions, that it is settled that nothing which is a direct burden upon interstate commerce can be imposed by the State without the assent of Congress, and that the silence of Congress in respect to any matter of interstate commerce is equivalent to a declaration on its part that it should be absolutely free.

In *Caldwell* v. *North Carolina,* 187 U. S. 622, a similar tax was declared invalid when the Court said, page 626:

> * * * but that, in making such internal regulations, a State cannot impose taxes upon persons passing through the State, or coming into it merely for a temporary purpose, especially if connected with interstate or foreign commerce; nor can it impose such taxes upon property imported into the State from abroad, or from another State, and not become part of the common mass of property therein; and no discrimination can be made, by such regulations, adversely to the persons or property of other States; and no regulations can be made directly affecting interstate commerce.

To the same effect see *Crenshaw* v. *Arkansas*, 227 U. S. 389, 401.

In *Darnell & Son Co.* v. *Memphis*, 208 U. S. 113, a tax exemption of growing crops and articles manufactured from the produce of the State, was held discriminatory as against the products of other States. The Court said, page 120:

> * * * that doctrine, as expounded in the decided cases, including those relied upon by the court below, has always expressly excluded the conception that a State could, without directly burdening interstate commerce, discriminate against such property by imposing upon it a burden of taxation greater than that levied upon domestic property of a like nature.

(3) The power of Congress to regulate interstate commerce does not depend upon the effect such regulation may have upon intrastate commerce.

In *The Daniel Ball*, 10 Wall. 557, 566, the Court said:

> And we answer further, that we are unable to draw any clear and distinct line between the authority of Congress to regulate an agency employed in commerce between the States, when that agency extends through two or more States, and when it is confined in its action entirely within the limits of a single State. If its authority does not extend to an agency in such com-

> merce, when that agency is confined within the limits of a State, its entire authority over interstate commerce may be defeated. Several agencies combining, each taking up the commodity transported at the boundary line at one end of a State, and leaving it at the boundary line at the other end, the federal jurisdiction would be entirely ousted, and the constitutional provision would become a dead letter.

In *Gibbons* v. *Ogden,* 9 Wheat. 1, 195, it is said:

> But in regulating commerce with foreign nations, the power of Congress *does not stop* at the *jurisdictional lines* of the several States. It would be a *very useless power,* if it could not *pass those lines.* * * * If Congress has the power to regulate it, that power must be exercised *wherever the subject exists.* [Italics ours.]

In *United States* v. *Rio Grande Irrigation Co.,* 174 U. S. 690, 709, the Court said:

> On the other hand, if the State of New York should, even at a place above the limits of navigability, by appropriation for any domestic purposes, diminish the volume of waters, which, flowing into the Hudson, makes it a navigable stream, to such an extent as to destroy its navigability, undoubtedly the jurisdiction of the National Government would arise and its power to restrain such appropriation be unquestioned; * * *.

In the *Shreveport Case,* 234 U. S. 342, 351, the Court said:

> The fact that carriers are instruments of intrastate commerce, as well as of interstate commerce, does not derogate from the complete and paramount authority of Congress over the latter or preclude the federal power from being exerted to prevent the intrastate operations of such carriers from being made a means of injury to that which has been confided to federal care.

In *Southern Ry. Co.* v. *United States,* 222 U. S. 20, 26–27, the Court said:

> And this is so, not because Congress possesses any power to regulate intrastate commerce as such, but because its power to regulate interstate commerce is plenary and competently may be exerted to secure the safety of the persons and property transported therein and of those who are employed in such transportation, no matter what may be the source of the dangers which threaten it. That is to say, it is no objection to such an exertion of this power that the dangers intended to be avoided arise, in whole or in part, out of matters connected with intrastate commerce.

In *Second Employers' Liability Cases,* 223 U. S. 1, 51, the Court said:

> As was said in *Southern Railway Co.* v. *United States,* 222 U. S. 20, 27, that power is plenary and competently may be exerted

> to secure the safety of interstate transportation and of those who are employed therein, no matter what the source of the dangers which threaten it.

In *Smith* v. *Alabama,* 124 U. S. 465, 473, the Court said:

> It follows that any legislation of a State, although in pursuance of an acknowledged power reserved to it, which conflicts with the actual exercise of the power of Congress over the subject of commerce, must give way before the supremacy of the national authority.

In *McCulloch* v. *Maryland,* 4 Wheat. 316, 406, the Court said:

> The Government of the United States, then, though limited in its powers, is supreme; and its laws, when made in pursuance of the Constitution, form the supreme law of the land, "anything in the constitution or laws of any State to the contrary notwithstanding."

In *Second Employers' Liability Cases,* 223 U. S. 1, 57, the Court, quoting from *Clafin* v. *Houseman,* 93 U. S. 130, 136, 137, said:

> The laws of the United States are laws in the several States, and just as much binding on the citizens and courts thereof as the state laws are. The United States is not a foreign sovereignty as regards the several States, but is a concurrent, and within its jurisdiction, paramount sovereignty.

In the *Shreveport Case,* 234 U. S. 342, 350, the Court said:

> It is of the essence of this power that, where it exists, it dominates. Interstate trade was not left to be destroyed or impeded by the rivalries of local governments.

(4) The power of a State to regulate intrastate commerce is limited to such instances as will not impose a burden upon or in any way interfere with interstate commerce.

In *Southern Ry. Co.* v. *Reid,* 222 U. S. 424, 435, a state regulation providing a penalty for failure to furnish cars to a shipper was held an interference with, and a burden upon, interstate commerce and therefore invalid.

To the same effect see *Houston & Texas Central Railroad Company* v. *Mayes,* 201 U. S. 321; *St. Louis, I. M. & S. Ry. Co.* v. *Edwards,* 227 U. S. 265; *Yazoo & Mississippi Valley R. Co.* v. *Greenwood Grocery Co.,* 227 U. S. 1.

In *Brown* v. *Houston,* 114 U. S. 622, 632, the Court said:

> In short, it may be laid down as the *settled doctrine* of this Court *at this day* that a State can no more regulate or impede commerce among the several States than it can regulate or impede commerce with foreign nations. [Italics ours.]

In *Chicago R. I. & P. Ry. Co.* v. *Hardwick Farmers Elevator Co.,* 226 U. S. 426, 435, the Court said:

> We say this because the elementary and long settled doctrine is that there can be no divided authority over interstate commerce and that the regulations of Congress on that subject are supreme. It results, therefore, that in a case where from the particular nature of certain subjects the State may exert authority until Congress acts under the assumption that Congress by inaction has tacitly authorized it to do so, action by Congress destroys the possibility of such assumption, since that action, when exerted, covers the whole field and renders the State impotent to deal with a subject over which it had no inherent but only permissive power.

In *Southern Ry. Co.* v. *R. Com. of Indiana,* 236 U. S. 439, 446, the Court said:

> Under the Constitution the nature of that power is such that when exercised it is exclusive and, *ipso facto,* supersedes existing state legislation on the same subject.

In *Atlantic Coast Line R. Co.* v. *Georgia,* 234 U. S. 280, 292, the Court said:

> Congress, when it pleases, may give the rule and make the standard to be observed on the interstate highway.

(5) The finding of the Commission as to the reasonableness of the interstate rate established the standard, and in ordering the removal of the undue prejudice by reason of a lower intrastate rate for like services under like circumstances and conditions, the Commission did not exceed the power conferred upon it by the Act to regulate commerce.

In the *Shreveport Case,* 234 U. S. 342, 355, the Court said:

> It is also clear that, in removing the injurious discriminations against interstate traffic arising from the relation of intrastate to interstate rates, Congress is not bound to reduce the latter below what it may deem to be a proper standard fair to the carrier and to the public. Otherwise, it could prevent the injury to interstate commerce only by the sacrifice of its judgment as to interstate rates. Congress is entitled to maintain its own standard as to these rates and to forbid any discriminatory action by interstate carriers which will obstruct the freedom of movement of interstate traffic over their lines in accordance with the terms it establishes.
>
> Having this power, Congress could provide for its execution through the aid of a subordinate body; and we conclude that the order of the Commission now in question cannot be held invalid upon the ground that it exceeded the authority which Congress could lawfully confer.

And further, pages 349, 350:

> Manifestly the order might be complied with, and the discrimination avoided, either

> by reducing the interstate rates from Shreveport to the level of the competing intrastate rates, or by raising these intrastate rates to the level of the interstate rates, or by such reduction in the one case and increase in the other as would result in equality.

Again, page 360:

> So far as these interstate rates conformed to what was found to be reasonable by the Commission, the carriers are entitled to maintain them, and they are free to comply with the order by so adjusting the other rates, to which the order relates, as to remove the forbidden discrimination. But this result they are required to accomplish.

In the *South Dakota Express Case,* 244 U. S. 617, the Court, at page 624, said:

> The report (which is made a part of the order) contains, among other things, a finding that the interstate rate which was prescribed by the Commission was not shown to be unreasonable. This finding gives implied authority to the express companies both to maintain their interstate rates and to raise, to their level, the intrastate rates involved. *The Shreveport Case* (*Houston & Texas Railway* v. *United States*), 234 U. S. 342. For, if the interstate rates are maintained, the discrimination can be removed *only* by raising the intrastate rates.

In *St. Louis, Iron Mountain & Southern Railway Company and B. F. Bush, Receiver,* v. *State,* 197 S. W. I., the Supreme Court of Arkansas after citing the *Shreveport* and the *American Express Company* cases, said, page 4:

> The necessary effect of these decisions is that the railway may charge the rate approved by the Interstate Commerce Commission in its interstate shipments, and that it may comply with the order of that Commission to remove existing discriminations against interstate shipments by raising the intrastate rate to such a point that, according to the ruling of the Interstate Commerce Commission, a discrimination will not exist.

(6) The finding of the Commission as to the reasonableness of the interstate rate has the legal efficacy of an act of Congress, and a state statute requiring a lower state rate for like services under like conditions, when the Commission has found such state rate unduly preferential, must give way to the superior power.

In *Southern Ry. Co.* v. *Reid,* 222 U. S. 424, opinion by Mr. Justice McKenna, it was said, page 442:

> If the regulation (by Congress) be not exclusive, this situation is presented: If the carrier obey the state law, he incurs the penalties of the federal law; if he obey the federal law, he incurs the penalties of the state law. Manifestly one authority must be para-

> mount, and when it speaks the other must be silent. We can see no middle ground. In so deciding we take no essential power from the States. The balances of the Constitution are only preserved, and there is given to the States the power which is the States' and to Congress the power which belongs to Congress.

In the *Shreveport Case,* 234 U. S. 342, 351, 352, the Court said:

> Wherever the interstate and intrastate transactions of carriers are so related that the government of the one involves the control of the other, it is Congress, and not the State, that is entitled to prescribe the final and dominant rule, for otherwise Congress would be denied the exercise of its constitutional authority and the State, and not the Nation, would be supreme within the national field.

Again, at page 353, the Court said:

> While these decisions sustaining the federal power relate to measures adopted in the interest of the safety of persons and property, they illustrate the principle that Congress in the exercise of its paramount power may prevent the common instrumentalities of interstate and intrastate commercial intercourse from being used in their intrastate operations to the injury of interstate commerce. This is not to say that Congress possesses the authority to regulate the internal commerce of a State, as such, but that it does

possess the power to foster and protect interstate commerce, and to take all measures necessary or appropriate to that end, although intrastate transactions of interstate carriers may thereby be controlled.

(7) The Commission having found the interstate rate to be reasonable, a state statute, which gives intrastate traffic preference over interstate traffic, closes the highways of interstate commerce to interstate traffic upon equal terms with intrastate traffic and imposes a burden upon interstate commerce which the Commission may order removed.

In the *Shreveport Case,* 234 U. S. 342, 353, 354, the Court said:

> We find no reason to doubt that Congress is entitled to *keep the highways of interstate communication open to interstate traffic upon fair and equal terms.* That an unjust discrimination in the rates of a common carrier, by which one person or locality is unduly favored as against another under substantially similar conditions of traffic, constitutes an evil is undeniable; and where this evil consists in the action of an interstate carrier in unreasonably discriminating against interstate traffic over its line, the authority of Congress to prevent it is equally clear. It is immaterial, so far as the protecting power of Congress is concerned, that the discrimination arises from intrastate rates as compared with interstate rates. The use of the instrument of interstate commerce in a discriminatory manner so as to inflict injury upon that

> commerce, or some part thereof, furnishes abundant ground for federal intervention. Nor can the attempted exercise of state authority alter the matter, where Congress has acted, for a State may not authorize the carrier to do that which Congress is entitled to forbid and has forbidden. (Italics ours.)

(8) The proviso in section 1 of the Act does not create an exception, but is simply a disclaimer as to transportation wholly within a State, which does not affect interstate transportation.

In the *Shreveport Case,* 234 U. S. 342, 358, the Court said:

> Here, the Commission expressly found that unjust discrimination existed under substantially similar conditions of transportation and the inquiry is whether the Commission had power to correct it. We are of the opinion that the limitation of the proviso in section one does not apply to a case of this sort. The Commission was dealing with the relation of rates injuriously affecting, through an unreasonable discrimination, traffic that was interstate. The question was thus not simply one of transportation that was " wholly within one State." These words of the proviso have appropriate reference to exclusively intrastate traffic, separately considered; to the regulation of domestic commerce, as such. The powers conferred by the Act are not thereby limited where interstate commerce itself is involved. This is plainly the case when the

Commission finds that unjust discrimination against interstate trade arises from the relation of intrastate to interstate rates as maintained by a carrier subject to the Act.

(9) The decision of this Court in The Minnesota Rate Cases, 230 U. S. 352, is not inconsistent with our contentions in this case. The Court in that case expressly recognized the power of the Commission to order the removal of undue prejudice against interstate traffic when the undue prejudice is brought about by intrastate rates.

In *The Minnesota Rates Cases,* 230 U. S. 352, the Court, at pages 419, 420, said:

> It is urged, however, that the words of the proviso are susceptible of a construction which would permit the provisions of section three of the Act, prohibiting carriers from giving an undue or unreasonable preference or advantage to any locality, to apply to unreasonable discriminations between localities in different States, as well as when arising from an intrastate rate as compared with an interstate rate as when due to interstate rates exclusively. If it be assumed that the statute should be so construed, and it is not necessary now to decide the point, it would inevitably follow that the controlling principle governing the enforcement of the Act should be applied to such cases as might thereby be brought within its purview; * * *. The

dominating purpose of the statute was to secure conformity to the prescribed standards through the examination and appreciation of the complex facts of transportation by the body created for that purpose; and, as this Court has repeatedly held, it would be destructive of the system of regulation defined by the statute if the Court without the preliminary action of the Commission were to undertake to pass upon the administrative questions which the statute has primarily confided to it. *Texas & Pacific Ry. Co.* v. *Abilene Cotton Oil Co.*, 204 U. S. 426; *Baltimore & Ohio R. R. Co.* v. *Pitcairn Coal Co.*, 215 U. S. 481; *Robinson* v. *Baltimore & Ohio R. R. Co.*, 222 U. S. 506; *United States* v. *Pacific & Arctic Co.*, 228 U. S. 87. *In the present case, there has been no finding by the Interstate Commerce Commission of unjust discrimination violation of the Act; and no action of that body is before us for review.* [Italics ours.]

(10) The Commission's findings of fact upon which the order of October 17, 1916, is based are final and not subject to review.

In matters involving the reasonableness of rates or undue discrimination in rates, the findings of the Commission when supported by evidence are final. Were it within the discretion of a court to review the findings of the Commission in rate controversies, there would result a hopeless confusion, for no two courts might agree upon what is a reasonable

rate or what is a nondiscriminatory adjustment. Where the question presented for determination is one involving the exercise of the administrative power of the Commission, not only must the Commission in the first instance pass upon that question, but its decision, when supported by evidence, is conclusive.

In *Interstate Commerce Commission* v. *Delaware, Lackawanna & Western R. Co.*, 220 U. S. 235, 255, the Court said:

> * * * the finding of the Commission that to permit the enforcement of the rule would give rise to preferences and engender discriminations prohibited by the Act to regulate commerce embodies a conclusion of fact beyond our competency to reexamine.

In *Interstate Commerce Commission* v. *Alabama Midland Ry. Co.*, 168 U. S. 144, 170, the Court said:

> * * * it cannot be doubted that whether, in particular instances, there has been an undue or unreasonable prejudice or preference, or whether the circumstances and conditions of the carriage have been substantially similar or otherwise, are questions of fact * * *.

In *Interstate Commerce Commission* v. *Illinois Central R. Co.*, 215 U. S. 452, 470, it was said:

> * * * it is equally plain that such perennial (judicial) powers lend no support

whatever to the proposition that we may, under the guise of exerting judicial power, usurp merely administrative functions by setting aside a lawful administrative order upon our conception as to whether the administrative power has been wisely exercised.

In *Pennsylvania R. Co.* v. *International Coal Co.*, 230 U. S. 184, 196, the Court ruled:

> Under the statute there are many acts of the carrier which are lawful or unlawful according as they are reasonable or unreasonable, just or unjust. The determination of such issues involves a comparison of rate with service, and calls for an exercise of the discretion of the administrative and rate-regulating body. For the reasonableness of rates, and the permissible discrimination based upon difference in conditions *are not matters of law*. So far as the determination depends upon facts, no jurisdiction to pass upon the administrative questions involved has been conferred upon the courts. [Italics ours.]

In the *Los Angeles Switching Case*, 234 U. S. 294, 314, it was stated:

> The argument for the petitioners necessarily invites the Court to substitute its judgment for that of the Commission upon matters of fact within the Commission's province. This is not the function of the Court.

In *United States et al.* v. *Louisville & Nashville R. Co. et al.*, 235 U. S. 314, 320, the Court said:

> It is not disputable that from the beginning the very purpose for which the Commission was created was to bring into existence a body which from its peculiar character would be most fitted to primarily decide whether from facts, disputed or undisputed, in a given case preference or discrimination existed.

In *The Minnesota Rate Cases, supra,* page 419, it was said:

> * * * and the question whether the carrier, in such a case, was giving an undue or unreasonable preference or advantage to one locality as against another, or subjecting any locality to an undue or unreasonable prejudice or disadvantage, would be primarily for the investigation and determination of the Interstate Commerce Commission and not for the courts.

In *Atchison, T. & S. F. R. Co.* v. *United States,* 232 U. S. 199, 221, opinion by Mr. Justice Lamar, it was said:

> All these (rate-making matters) are matters committed to the decision of the administrative body, which, in each instance, is required to fix reasonable rates and establish reasonable practices. The courts have not been vested with any such power. They cannot make rates.

In *Interstate Commerce Commission* v. *Union Pacific R. Co. et al.*, 222 U. S. 541, 550, this Court said:

> With that sort of evidence before them, rate experts of acknowledged ability and fairness, and each acting independently of the other, may not have reached identically the same conclusion. We do not know whether the results would have been approximately the same. For there is no possibility of solving the question as though it were a mathematical problem to which there could only be one correct answer. Still there was in this mass of facts that out of which experts could have named a rate. The law makes the Commission's findings on such facts conclusive.

In *O'Keefe* v. *United States*, 240 U. S. 294, opinion by Mr. Justice Pitney, it was said, page 303:

> A tribunal such as the Interstate Commerce Commission, expert in matters of rate regulation, may be presumed to be able to draw inferences that are not obvious to others.

In *Illinois Central R. Co.* v. *Interstate Commerce Commission*, 206 U. S. 441, 460, the Court, quoting from an English case, said:

> * * * and if this court once attempts the hopeless task of dealing with questions of this kind with any approach to mathematical accuracy, and tries to introduce a

> precision which is unattainable in commercial and practical matters, it would do infinite mischief and no good.

(11) In its order of October 17, 1916, the Commission did not exceed the jurisdiction which it exercised in its order in the Shreveport Case, 23 I. C. C. 31, and which was sustained by this Court.

In *R. R. Commission of La.* v. *St. Louis S. W. Ry. Co.*, 23 I. C. C. 31, pursuant to a complaint brought by the Railroad Commission of Louisiana, the Commission prescribed reasonable class rates between Shreveport, Louisiana, and Dallas, Texas, and other eastern Texas points; found that rates on certain articles out of Dallas and other Texas points into eastern Texas discriminated unjustly against Shreveport shippers and constituted an undue burden on interstate commerce, in that these articles took low-commodity rates under the Texas classification, while they moved under higher class rates from Shreveport into Texas; and ordered the carriers to cease and desist from charging higher rates on any commodity from Shreveport to Dallas or Houston, or points intermediate thereto, than were contemporaneously charged for the carriage of such commodity to equidistant points from Houston or Dallas toward Shreveport. The Commission said, page 33:

> The gravamen of the complaint is that the carriers defendant make rates out of Dallas and other Texas points into eastern

> Texas which are much lower than those which they extend into Texas from Shreveport, La.

Certain of the carriers defendants therein brought suit in the Commerce Court to set aside the Commission's order on the ground that it exceeded the Commission's authority. These petitions were dismissed, 205 Fed. 380, and an appeal taken to this Court. The Court sustained the order of the Commission. *Shreveport Case,* 234 U. S. 342.

In stating the case the Court said, pages 346, 347:

> The Interstate Commerce Commission found that the interstate class rates out of Shreveport to named Texas points were unreasonable, and it established maximum class rates for this traffic. These rates, we understand, were substantially the same as the class rates fixed by the Railroad Commission of Texas, and charged by the carriers, for transportation for similar distances in that State. The Interstate Commerce Commission also found that the carriers maintained "higher rates from Shreveport to points in Texas" than were in force "from cities in Texas to such points under substantially similar conditions and circumstances," and that thereby "an unlawful and undue preference and advantage" was given to the Texas cities and a "discrimination" that was "undue and unlawful" was effected against Shreveport. In order to correct this discrimination, the carriers were directed to

> desist from charging higher rates for the transportation of any commodity from Shreveport to Dallas and Houston, respectively, and intermediate points, than were contemporaneously charged for the carriage of such commodity from Dallas and Houston toward Shreveport for equal distances, as the Commission found that relation of rates to be reasonable.

And further, pages 348–349:

> The report states that under this order it will be the duty of the companies "to duly and justly equalize the terms and conditions" upon which they will extend "transportation to traffic of a similar character moving into Texas from Shreveport with that moving wholly within Texas," but that, in effecting such equalization, the class scale rates as prescribed shall not be exceeded.

The invalidity of the order was challenged upon two grounds, page 350:

> (2) That, if it be assumed that Congress the intrastate charges of an interstate carrier, even to the extent necessary to prevent injurious discrimination against interstate traffic; and
>
> (2) That, if it be assumed that Congress has this power, still it has not been exercised, and hence the action of the Commission exceeded the limits of the authority which has been conferred upon it.

The Court resolved both these points in favor of the order of the Commission. It said, pages 351, 352:

> Congress is empowered to regulate—that is, to provide the law for the government of interstate commerce; to enact "all appropriate legislation" for its "protection and advancement" (*The Daniel Ball,* 10 Wall. 557, 564); to adopt measures "to promote its growth and insure its safety" (*County of Mobile* v. *Kimball, supra*); "to foster, protect, control, and restrain" (*Second Employers' Liability Cases, supra*). Its authority, extending to these interstate carriers as instruments of interstate commerce, necessarily embraces the right to control their operations in all matters having such a close and substantial relation to interstate traffic that the control is essential or appropriate to the security of that traffic, to the efficiency of the interstate service, and to the maintenance of conditions under which interstate commerce may be conducted upon fair terms and without molestation or hindrance. As it is competent for Congress to legislate to these ends, unquestionably it may seek their attainment by requiring that the agencies of interstate commerce shall not be used in such manner as to cripple, retard, or destroy it. The fact that carriers are instruments of intrastate commerce, as well as of interstate commerce, does not derogate from the complete and paramount authority of Congress over the latter or preclude the fed-

> eral power from being exerted to prevent the intrastate operations of such carriers from being made a means of injury to that which has been confided to federal care.

In considering the jurisdiction of the Commission over the relationship between state and interstate rates the Court further said, pages 359, 360:

> We are not unmindful of the gravity of the question that is presented when State and Federal views conflict. But it was recognized at the beginning that the Nation could not prosper if interstate and foreign trade were governed by many masters, and, where the interests of the freedom of interstate commerce are involved, the judgment of Congress and of the agencies it lawfully establishes must control.

The order involved herein is similar to that entered in the *Shreveport Case*. The Commission here, as there, prescribed reasonable maximum interstate rates, found as a fact that the existing state rates were unduly prejudicial and imposed an undue burden on interstate commerce and by its order of October 17, 1916, ordered the discrimination removed.

It may be argued that the Commission's order of October 17, 1916, affected practically the entire passenger fare adjustment within the State of Illinois, while the order in the *Shreveport Case* applied merely to that part of eastern Texas adjacent to

Shreveport and its vicinity. But if, as the Commission found, the contemporaneous maintenance of state fares within Illinois upon a basis lower than the basis underlying interstate fares between St. Louis and Keokuk and Illinois points imposes an undue burden on interstate commerce, the same principles which went to sustain the order in the *Shreveport Case* are here applicable.

Moreover, limiting the removal of discrimination to a certain section of the State would only partially open the interstate highways of Illinois to interstate commerce upon equal terms with intrastate commerce. If the removal of discrimination were limited merely to that part of Illinois adjacent to St. Louis and Keokuk, it is apparent that the burden against interstate commerce would be taken away only in a degree. In fact, the limited relief of the order in the *Shreveport Case,* confined as it was to eastern Texas, was not sufficient to relieve interstate commerce of the burden imposed by Texas intrastate rates, and the Commission issued a series of subsequent decisions, *Railroad Commission of La.* v. *St. Louis S. W. Ry. Co.,* 34 I. C. C. 472; *Railroad Commission of La.* v. *Aransas H. T. Ry. Co.,* 41 I. C. C. 83, in which its original findings and order were enlarged to include the entire State of Texas and all the carriers operating therein. This order was sustained in the district court. *Eastern Texas R. Co. et al.* v. *Railroad Commission of Texas,* 242 Fed. 300.

(12) There was substantial evidence in the proceedings before the Commission to sustain its conclusions of fact in its two reports and to support the order of October 17, 1916, entered pursuant to these reports.

Voluminous evidence with regard to the discriminatory nature of the present relationship between state and interstate passenger fares was offered at the hearing before the Commission. The Commission in its original report, 41 I. C. C. 13, 14, carefully sifted this evidence bearing upon the discriminatory nature of the relationship between state and interstate passenger fares, and many comparisons are given therein to show that the present relationship imposes an unreasonable and undue burden upon interstate commerce.

The Commission also gave careful consideration to the question of the reasonableness of the interstate fares between St. Louis and Keokuk and Illinois points as is evidenced by the lengthy discussion of that question in its report, 41 I. C. C. 13. In view of the voluminous record made at the hearing, it can not fairly be said that there was not substantial evidence in the proceedings before the Commission to support its two reports and the order of October 17, 1916, responsive thereto.

(13) The authority of the Commission has not been exercised in an unreasonable or arbitrary manner.

The Commission's conclusions and findings were reached only after careful consideration of all the matters presented in the original complaint and intervening petitions, and were entirely in accord with the procedure customarily followed in considering complaints made before the Commission. There is ample evidence of record to support the findings therein made, which are reflected in the Commission's order of October 17, 1916.

The fact that, in establishing reasonable interstate rates and in requiring the existing discrimination to be removed, a mileage basis was used rather than particular fares between specific points, does not signify that the Commission acted in an unreasonable or arbitrary manner. Passenger fares are universally based upon mileage. Where the operating conditions are substantially similar, as the Commission found them to be throughout the State of Illinois, it is not unreasonable or arbitrary to make passenger fares upon a mileage unit. The Court has comparatively recently decided that the Commission's action is neither unreasonable nor arbitrary even where the compensation for the service performed in handling *freight* is fixed upon a mileage basis. In *O'Keefe* v. *United States,* 240 U. S. 294, the Court said, pages 303, 304:

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Nor can it be said that the Commission's action was arbitrary because, while classifying all the service for distances up to 3 miles from junction as switching, and allowing for this a division of $2 and $3 per car, allowances for all distances above 3 miles are based upon mileage. It is admitted that distance is an element properly to be considered; but appellant insists that terminal service, the origin of traffic, etc., are more important elements. This is an administrative question. * * * We are not able to say that the adoption of the mileage basis is, under the circumstances, sufficient to sustain a charge of arbitrary action.

(14) A further hearing is not necessary to support the validity of a supplemental report and order if sufficient evidence was introduced at the initial hearing to sustain the findings made therein.

Although no further hearings were had prior to the findings made in the supplemental report of October 17, 1916, the whole situation was before the Commission and abundant evidence was introduced at the initial hearing to support the findings in the supplemental report. The Commission does not lose its jurisdiction over the subject matter of the case on entering an order. The Commission's term is continuous; its jurisdiction of the subject matter permanent. It may, upon the evidence introduced at the initial hearing, amend its original findings or order without

further notice or hearing. *O'Keefe* v. *United States, supra; United States et al.* v. *Merchants, etc., Asso.*, 242 U. S. 178.

(15) The order of October 17, 1916, is definite and certain.

The order of October 17, 1916, amending the order of July 12, 1916, is so drawn that there can not be any doubt as to its extent or meaning. It is as broad as the undue prejudice found to exist, which is state-wide.

CONCLUSION.

The Commission, in entering its order of October 17, 1916, did not attempt to regulate the internal commerce of the State of Illinois, as such. The order of October 17, 1916, deals with the *relationship* of state and interstate rates, not with the reasonableness of the state rates as such, and is in the exercise by the Commission of its delegated authority and duty to end an undue prejudice to localities of other States and to interstate passenger traffic, and to remove a burden resting upon interstate commerce. In doing this the Commission has acted entirely within its jurisdiction and its order is valid, both in whole and in part.

Respectfully submitted.

JOSEPH W. FOLK,
Counsel for the Interstate Commerce Commission.

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In the Supreme Court of the United States.

OCTOBER TERM, 1917.

STATE PUBLIC UTILITIES COMMISSION OF Illinois, Edward J. Brundage, Attorney General, et al., appellants.

v.

THE UNITED STATES, INTERSTATE COMMERCE COMMISION, Illinois Central Railroad Company, et al.

No. 448.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

BRIEF FOR THE UNITED STATES.

STATEMENT OF CASE.

The Illinois Central Railroad Company and 28 other common carriers instituted suits in the United States District Court for the Northern District of Illinois against the State Public Utilities Commission of Illinois to enjoin it from refusing to accept and file tariffs presented by plaintiffs and alleged to be in pursuance of an order of the Interstate Commerce Commission, and against the various State's attorneys to enjoin them from prosecuting criminal or civil suits against

plaintiffs for violations of the so-called Maximum Rate of Charges Law (sections 233 and 234, c. 114, Revised Statutes of Illinois, 1915–1916), alleged in the petition to be unconstitutional and void because in conflict with said order of the Interstate Commerce Commission and plaintiffs' constitutional rights. The cases were consolidated and tried as one case (R. 115).

Upon defendants' motion, the court ordered the United States and the Interstate Commerce Commission made parties (R. 60), and supplemental bills were thereupon filed praying that this be done (R. 64, 71).

The defendants filed an answer in the nature of a cross bill (R. 76), in which they asked that the United States and the Interstate Commerce Commission be made parties, asserting the invalidity of the Commission's order and praying that it be annulled upon the grounds, among others, that the order exceeded the powers of the Commission, because it applied to the transportation of passengers wholly within the State; was in conflict with the Maximum Rate of Charges Law, a valid police regulation of the State; was unsupported by substantial evidence; and was so vague and indefinite as to be unenforceable, and so arbitrary and unreasonable as to be unconstitutional (R. 81–85).

The order of the Commission attacked in the cross bill was the final order (R. 55) entered in a proceeding before the Commission brought in June, 1915, by the Business Men's League of St. Louis against various common carriers, wherein the passenger fares between

St. Louis, Mo., and points in Illinois were complained of as being unreasonable and discriminatory as compared with competing intrastate fares in Illinois. The interstate fares were based on a two and four-tenths or a two and five-tenths cent per mile rate which the Interstate Commerce Commission had found to be reasonable (R. 39, 46), and the intrastate fares were based on the maximum two cent per mile rate provided in the Maximum Rate of Charges Law of the State of Illinois (R. 39). The State of Illinois intervened in the proceeding before the Commission, averring that the statutory intrastate fares were not discriminatory and that the Interstate Commerce Commission was without jurisdiction to interfere with the State fares (R. 388–390). The Keokuk Industrial Association also intervened, alleging that Keokuk competed with St. Louis and asking that it be granted the same relief extended to St. Louis (R. 385). The Interstate Commerce Commission found that a two and four-tenths cent interstate rate was reasonable and that there was discrimination against St. Louis and Keokuk arising out of the difference between the interstate and intrastate fares (R. 31–47) and ordered the railroads to cease the discrimination (R. 48–51). The railroads attempted to remove the discrimination by raising the intrastate fares, and brought this proceeding to enjoin interference therewith by the State officials.

The United States, appearing specially, filed a motion in the present proceeding to dismiss the bill and cross bill as to the United States and the Inter-

state Commerce Commission, upon the ground that the former was a proceeding to enforce an order of the Commission and the latter a proceeding to annul an order of the Commission, and could therefore be brought only in the district wherein the party resided upon whose petition the order was made (c. 32, 38 Stat. 208, 219, 220), which was, in this case, the Eastern District of Missouri and not the Northern District of Illinois (R. 101). The Interstate Commerce Commission filed a plea and answer to the cross bill (R. 91).

The court denied the motion to dismiss the bill for want of proper venue, holding that the proceeding was not an action to enforce an order of the Commission; but dismissed the bill, as to the United States and the Commission for want of jurisdiction because the United States had not consented to be sued in such proceeding (R. 104–107, 114–117).

The motion to dismiss the cross bill for want of proper venue was sustained, and the cross bill dismissed as to the United States and the Commission (R. 114–117).

Defendants, other than the United States and the Interstate Commerce Commission, excepted to this ruling and took an appeal to this court (R. 227–230). The United States and the Interstate Commerce Commission appear here only as appellees to this cross appeal. The United States also took an appeal (R. 217–220), but dismissed the same on April 9, 1917.

After the dismissal of the bill and cross bill as to the United States and the Interstate Commerce Com-

mission, the three judges, who had been called to sit as provided in the Urgent Deficiency Act of October 22, 1913, c. 32, 38 Stat. 208, 220, decided that they were without jurisdiction, and the case thereafter proceeded to a hearing on the merits before one judge, and resulted in the dismissal of the bill (R. 147).

QUESTION PRESENTED.

As far as the Government is concerned, the single question presented in this case is:

Did the District Court for the Northern District of Illinois have jurisdiction over the United States and the Interstate Commerce Commission in a suit brought, in the nature of a cross bill, to annul and enjoin an order of the Commission, when no party upon whose petition the order of the Commission was made resided in the Northern District of Illinois?

ARGUMENT.

The cross bill was, and was by defendants intended to be, a suit to "suspend or set aside" an order of the Interstate Commerce Commission. Defendants prayed that "this answer be taken as the cross bill or counter claim of these defendants against the said plaintiffs and the United States of America and the Interstate Commerce Commission" and "that the said order of the Interstate Commerce Commission entered on October 17, 1916 (except in so far as it vacates the previous order of July 12, 1916), be set aside and annulled" (R. 86).

The District Court construed the cross bill to be a proceeding to suspend or set aside an order of the Commission and "one which under the provisions of the Act of October 22, 1913 (38 Stat. 219), should be heard by three judges, * * *." (R. 103.)

The parties upon whose petition the order of the Interstate Commerce Commission in question was made resided in the Eastern District of Missouri, and none in the Northern District of Illinois.

At the hearing, the District Court, in dismissing the cross bill as to the United States and the Commission, held:

> Upon the objections of the United States which are set forth in its special appearance, the majority of the court are of the opinion that the cross bill should be stricken out; that this court has no jurisdiction of the cross bill as such, and that the only court that can attack, modify, enforce or annul the order of the Interstate Commerce Commission in this particular instance, is the United States District Court for the Eastern District of Missouri. (R. 105.)

Upon these facts, the Government submits its case upon the following words of the only statute by which the Government has consented to be sued:

> The venue of any suit hereafter brought to enforce, suspend, or set aside, in whole or in part, any order of the Interstate Commerce Commission shall be in the judicial district wherein is the residence of the party or any of the parties upon whose petition the order

was made, * * *. [Urgent Deficiency Act of October 22, 1913; c. 32, 38 Stat. 208, 219.]

CONCLUSION.

The judgment of the District Court dismissing the cross bill as to the United States and the Interstate Commerce Commission for want of proper venue was correct, and should be affirmed.

JOHN W. DAVIS,
Solicitor General.

SEPTEMBER, 1917.

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Office Supreme Court, U. S.
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JAMES D. MAHER
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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1917.

No. 416.

ILLINOIS CENTRAL RAILROAD COMPANY, APPELLANT,

vs.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, EDWARD J. BRUNDAGE, ATTORNEY GENERAL, ET AL., APPELLEES.

No. 448.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS ET AL., APPELLANTS,

vs.

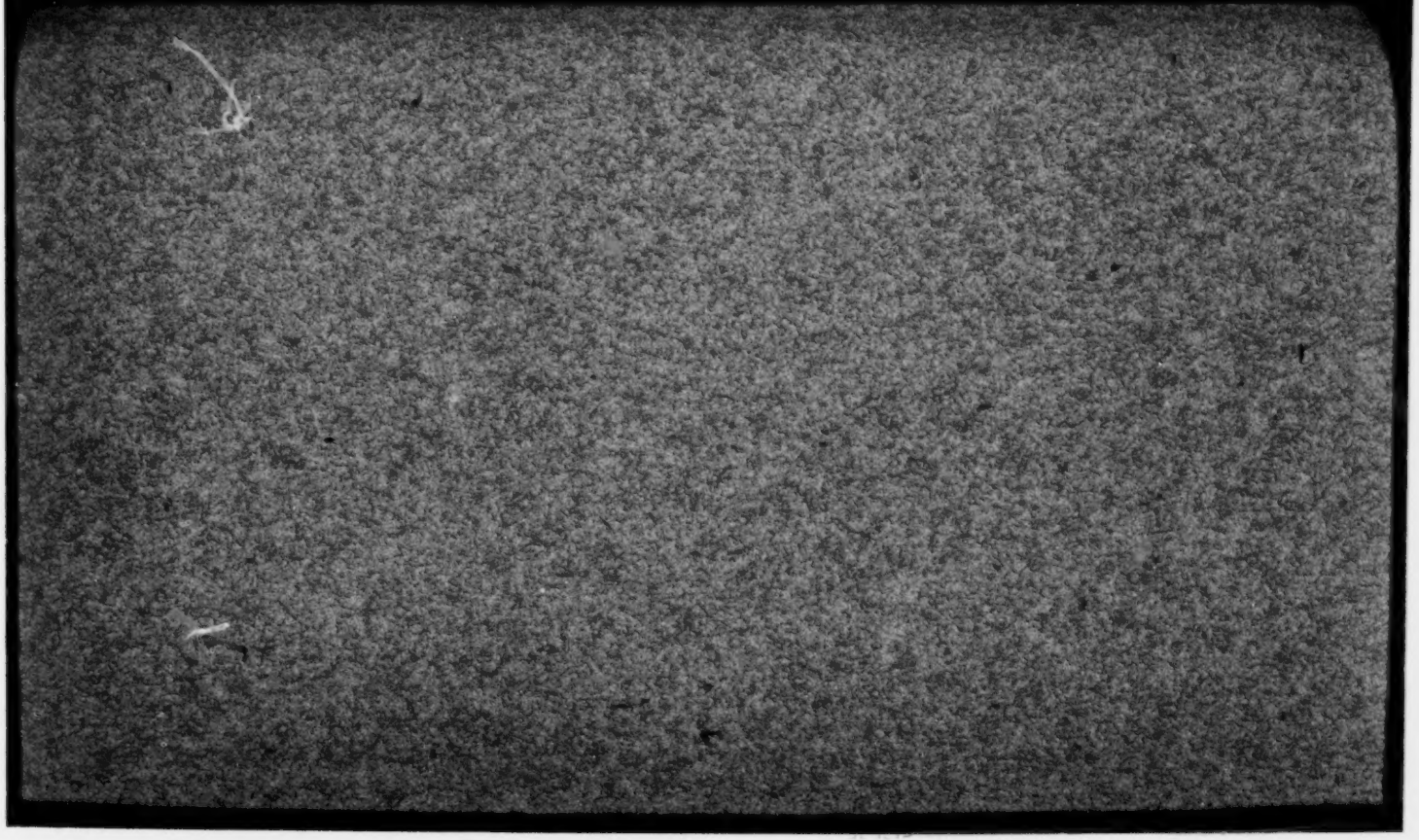
UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ILLINOIS CENTRAL RAILROAD COMPANY ET AL., APPELLEES.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

ILLINOIS PASSENGER FARE CASES.

REPLY OF APPELLANTS IN CASE No. 448.

EDWARD J. BRUNDAGE,
Attorney General,
JAMES H. WILKERSON,
GEORGE T. BUCKINGHAM,
Assistant Attorneys General.



IN THE

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ILLINOIS CENTRAL RAILROAD COMPANY, APPELLANT,

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No. 448.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS ET AL., APPELLANTS,

vs.

UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ILLINOIS CENTRAL RAILROAD COMPANY ET AL., APPELLEES.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

ILLINOIS PASSENGER FARE CASES.

REPLY OF APPELLANTS IN CASE No. 448.

The Interstate Commerce Commission, on October 1, 1917, filed a brief relating to some of the questions involved in both appeals. The solicitor general, on October 1, 1917, filed a

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brief dealing solely with the question of the construction of the venue section of the act abolishing the commerce court (urgent deficiency act of October 2, 1913; c. 32-38 Stat., 208-219). The Southern Railway Company and Mobile & Ohio Railroad Company have filed a brief supplemental to the one filed in No. 416 on behalf of all the carriers. We desire to indicate for the convenience of the court our position as to some of the propositions advanced, although, in the main, those propositions are discussed in our original briefs.

Right of Illinois Authorities to Question Validity of the Commission's Order.

The counsel for the Commission invokes the rule that judgments and decrees may not be attacked collaterally except for lack of jurisdiction over the subject-matter or the parties, or for fraud, and appears to believe that the rule may be so applied to the order of the Commission as to make it immune from attack of every kind on the part of the Illinois authorities. He asserts that such was the ruling of Judges Evans and Carpenter at the hearing on the application for a preliminary injunction.

This was not the ruling of those judges, as will be seen from an examination of the order of January 6, 1917 (Rec., pp. 115-116).

Reference to the answer (Rec., 76-85) and to that order demonstrates that there was no denial by the three judges of the right of the defendants to the original bill to attack the order on the ground that the action of the Commission was repugnant to the Constitution or that its action was in excess of the powers which that body possesses under the Interstate Commerce Act, or that the facts found by the Commission did not, as matter of law, support the order made. That part of the carrier's motion (Rec., 99) which sought to eliminate the allegation in defendants' answer that the findings of the Commission did not sustain this order was over-

ruled. The portions of the answer stricken out presented in different forms the claim that the findings of the Commission were wholly unsustained by proof. The Chancellor, in finally settling the pleadings in the case, followed the principle stated by Mr. Justice Lamar in *Interstate Commerce Commission* vs. *Louisville & N. R. R. Co.*, 227 U. S., 88, 91, and by Chief Justice White in *United States* vs. *Louisville & N. Railroad Company*, 235 U. S., 314, 321, to the effect that an order of the Commission which is wholly unsustained by proof is arbitrary and void and therefore unconstitutional, and restored those portions of the answer which contained the averments as to the entire absence of proof. (See Brief of Appellees in case No. 416, pp. 49-50.)

We assert here that the order in controversy is beyond the power conferred upon the Commission by the Interstate Commerce Act, and that as interpreted by the carriers it is unsupported by the facts found by the Commission. Our right to do this has not been questioned by any judge to whom any branch of this case has been presented, and we assert that our right to challenge the validity of the Commission's order upon the grounds last stated cannot be attacked upon any ground that does not put an order of the Interstate Commerce Commission above an act of Congress.

We further assert that our right to challenge the validity of the order of the Commission upon the ground that it is wholly unsustained by proof is just as clear as is our right to challenge it on the ground that it is not a proper exercise of the power of Congress to regulate interstate commerce. Both grounds of challenge go essentially and fundamentally to the constitutionality of the order.

Jurisdiction goes to the question of power. The Commission has no power to make an order repugnant to the Constitution. It has no power to make an order in excess of the authority conferred upon it by the Interstate Commerce Act. It has no power to direct a carrier to do something which,

upon the facts found, the carrier may not be required to do. For such an act of the Commission would be an arbitrary act, and an arbitrary act is unconstitutional. It has no power to direct a carrier to do something when there is absolutely no evidence before it as a foundation for its action; because such an act of the Commission likewise involves the exercise of arbitrary power and is repugnant to the Constitution.

We are not contending here, and we have never contended, that the court may review the controverted evidence as to discrimination. The evidence in the case at bar is not controverted. The facts are not questioned. We maintain that all of the facts relied upon in making of the order of the Commission are stated in its report, and we assert that the facts found by the Commission did not in law give to the Commission power to direct the carriers to do what they interpret the order of the Commission to mean.

Moreover, in dealing with our right to attack this order, the counsel for the Commission overlooks the fundamental distinction between orders of the Commission and court orders. The order of the Commission is legislative in kind. The effect claimed for it is that of a statute. Whenever and wherever it is asserted as against valid State laws made in the exercise of the State's reserved power, the order of the Commission must stand the test to which all Federal legislative acts are subject. It must be constitutional; it must be within the delegated power of the legislative branch of the Government or of the agency upon which a fraction of the legislative authority has been conferred, and it must manifest the intention of the Commission clearly, specifically and unmistakably to override the State statute.

No Necessity for a Complaint or a Petition for Rehearing Before the Commission to Protect the State Statute.

The counsel for the Commission asserts (Brief, pages 21-25) that the Illinois officers have no right to call into question anywhere the validity of the Commission's order, because they have not appealed to the Commission under either section 13 or section 16-A of the Interstate Commerce Act.

In attempting to apply what has been said as to communities or shippers who are seeking relief against carriers, the counsel for the Commission overlooks the fact that in the situation with which we are here dealing we start out with a valid State statute. That statute stands unless and until it is superseded by clear, specific and unmistakable Federal action involving a valid exercise of the power of the agency through which the Federal authority is exerted; and, if there is no such Federal action, the State statute remains in effect. If the order of the Commission is indefinite, if it is beyond the power of the Commission under the Interstate Commerce Act, if it is unconstitutional because unsupported by the facts found, or unsupported by evidence, and therefore arbitrary, there is nothing to complain about or to file a petition for rehearing about, because the act of the Commission is void and it does not affect the State statute.

The unsoundness of the position of the Commission becomes apparent when we consider the situation at the time the carriers' bill was filed. The Commission had made no affirmative command directed against any State officer. The order was directed against the carriers which required them to remove certain alleged discriminations. No schedule of fares had been filed by the carriers (see Record, 22-23); and the first intimation which the Illinois officers had that their laws were to be attacked came in the form, not of an order or direction from the Commission, but of a law suit by the carriers. The counsel for the Commission is evidently labor-

ing under the impression that the sovereign states of the Union are in the same class with manufacturing societies and business men's leagues.

Complaint is also made that the State of Illinois has not resorted to a three-judge court in the eastern district of Missouri.

In its answer filed in the district court, the Commission denied the right of the Illinois officers to attack the order of the Commission directly in any court. It was averred by the Commission (Rec., 96) that the Illinois officers did not have "a vested interest in any rate affected by the said order of" the Commission. We suggest that before advancing the line of argument now under consideration the Commission should indicate whether or not it deems its order subject to attack in a direct proceeding by any other person than those against whom, as stated in *Procter & Gamble Company vs. United States*, 225 U. S., 282, 297, 298, the affirmative command of the Commission is directed.

The Alleged Unconstitutionality of the State Statute.

The counsel for the Commission cites many cases (Brief, pp. 33-45) in support of the proposition that state statutes levying discriminatory taxes against interstate commerce or otherwise imposing a direct burden upon interstate commerce are repugnant to the federal constitution. Statutes of that kind, however, were differentiated in the Minnesota Rate Cases from State statutes regulating intrastate railroad rates. This court there said (230 U. S., 416-417):

> "The doctrine was thus fully established that the state could not prescribe interstate rates, but could fix reasonable intrastate rates throughout its territory. The extension of railroad facilities has been accompanied at every step by the assertion of this authority on the part of the states and its invariable recognition by this court. It has never been doubted that

the state could, if it saw fit, build its own highways, canals and railroads. (*Railroad Company vs. Maryland*, 21 Wall., 456, 470, 471.) It could build railroads traversing the entire state and thus join its border cities and commercial centers by new highways of internal intercourse to be always available upon reasonable terms. Such provision for local traffic might indeed alter relative advantages in competition, and, by virtue of economic forces thus engaged, interstate trade and transportation might find it necessary to make readjustments extending from market to market through a wide sphere of influence; but such action of the state would not for that reason be regarded as creating a direct restraint upon interstate commerce, and as thus transcending the state power. Consequently, the authority of the state to prescribe what shall be reasonable charges of common carriers for intrastate transportation, unless it be limited by the exercise of the constitutional power of Congress, is statewide. As a power appropriate to the territorial jurisdiction of the state, it is not confined to a part of the state, but extends throughout the state—to its cities adjacent to its boundaries, as well as those in the interior of the state. To say that this power exists, but that it may be exercised only in prescribing rates that are on an equal or higher basis than those that are fixed by the carriers for interstate transportation, is to maintain the power in name while denying it in fact. It is to assert that the exercise of the legislative judgment in determining what shall be the carrier's charge for the intrastate service is itself subject to the carrier's will. But this statewide authority control's the carrier and is not controlled by it, and the idea that the power of the state to fix reasonable rates for its internal traffic is limited by the mere action of the carrier in laying an interstate rate to places across the state's border, is foreign to our jurisprudence."

We make no question of the power of Congress to control intrastate transactions which "may have become so inter-

woven" with interstate transactions "that the effective government of the former incidentally controls the latter."

The question in the case at bar is not what Congress may do. The question is: What has Congress done? We assert that it has left the States free to control their intrastate rates save only as it may be necessary for the Commission to interfere by clear, specific, and unmistakable orders to remove undue or unreasonable discrimination against particular localities.

We submit that the question here involved is not the paramount authority of Congress which no one disputes, but whether Congress has in fact conferred upon the Commission the power which is claimed for it, and whether, assuming that the Commission does possess the power claimed, it exercised it in the way in which its power must be exercised in order to set aside State laws.

The Finality of the Commission's Findings of Fact.

Counsel for the Commission refers to many cases (Brief, 53-58) in which this court has stated that it will not review controverted questions of fact before the Commission. We assent to the doctrine of those cases; we do not challenge it and have never challenged it. On the contrary, we have asserted that all the evidence before the Commission is summarized and embodied in its findings of fact; that there was no fact in evidence before the Commission which is not stated in the report which is made a part of the order. And we have maintained that upon the facts found the Commission undertook to characterize as discrimination something which in law did not amount to undue and unreasonable discrimination against specific localities within the meaning of section 3 of the Interstate Commerce act, and that therefore the order of the Commission was arbitrary and unconstitutional.

The Brief for the Southern Railway and the Mobile & Ohio Railroad Companies.

Counsel for these carriers attempts to differentiate their cases from those of the other carriers. They appear to think that there is something about the location of their lines which makes the order of the Commission more potent when they invoke than when the other carriers invoke it. We suggest, however, that the effect of the order cannot be increased by the location of the railroads. If the order is statewide in the sense in which the carriers contend, then it applies to every passenger fare between all points in Illinois. This, of course, includes points on the lines of these particular appellants. If the order is not State-wide in the sense in which the carriers use that term, then we submit there has been no explanation of the order which operates to distinguish the case of the Southern Railway Company and the Mobile & Ohio Railroad Company from the cases of the other carriers.

Counsel for these particular carriers quote in their brief at page 5 a portion of the order of the Commission, and state that they find it difficult to imagine how language can more plainly describe the tariffs which the Southern Railway Company and the Mobile & Ohio Railroad Company were directed to promulgate. They overlook, however, the last clause of the portion of the order quoted: "As such fares have been found in said report to be unlawfully discriminatory." It is this phrase which injects into the order the ambiguous, indefinite, and uncertain language of the supplemental report which, as we have contended, operates to invalidate the whole order.

The Venue Section of the Act Abolishing the Commerce Court.

As we stated at the beginning of our main brief in case No. 448, questions relating to this section are pertinent only in case this court should adopt a view of the major proposi-

tions in litigation different from the one which we think should be adopted.

If we are correct in our view that the order of the Commission treated as a legislative act does not operate to supersede the State statute, it is immaterial whether the United States is in or out of the litigation, except that for fundamental equity reasons it is always highly desirable that all parties who may have any interest in the controversy should be brought before the court so that there may be an end to the litigation.

As we pointed out in our main brief in case 448, this venue section has nothing to do with the Interstate Commerce Commission. The United States was obviously a proper party to the suit, if, under the section in question, a suit could be maintained against it in the northern district of Illinois. The construction which we have placed upon the statute is the only construction which gives meaning and effect to all of the words of the section.

> "It is an elementary rule of construction that effect must be given, if possible, to every word, clause and sentence of a statute. Statutes should be so construed that effect may be given to all of their provisions, so that no part will be inoperative or superfluous, void or insignificant, and so that one section will not destroy another." (*Lewis' Sutherland Statutory Construction*, Volume 2, Section 380, page 731, and cases there cited.)

As against the construction which would be placed upon the statute if this language were interpreted according to fundamental rules, counsel for the opposite parties invoke an interpretation which was given to it by a single Senator in the debates at the time the phraseology relied upon was injected into the act by amendment.

We invite a reading of the entire discussion in the Senate, found on pages 5613, 5617, 5618 and 5619 of the Congressional Record, 63d Congress, 1st Session, Volume 50.

It appears that there was a wide diversity of view as to the effect of the amendment. Senator Sutherland pointed out that confusion would result from it. Senators Poindexter, Borah and Martin each gave their views of the effect of the amendment. Senator Martin (p. 5618) said:

> "My interpretation of the provision, that when the order does not relate to transportation or is not made upon the petition of any party, the venue shall be in the district where the matter complained of in the petition before the Commission arises, is that they (the court) would treat it as if the words 'complained of in the petition' were omitted from the statute entirely."

There was no agreement among senators as to the effect of the amendment. The views of Senator Walsh, quoted in the reply brief of counsel for the carriers at pages 19 and 20, represent only his individual opinion as to the significance of this language. Senator Sutherland concluded the discussion of the amendment as follows:

> *"Mr. President, it may be that the court will come to relieve this situation and straighten out this matter. As has been said by the chairman of the committee, the matter has passed the point where this body can do anything about it; but I cannot let the matter be finally disposed of without saying that it is a piece of exceedingly loose legislation. It is so unhappily worded, and there is so much confusion in it that a responsible legislative body like the Senate of the United States ought to be ashamed to let it go upon the statute books."*

Certainly in the midst of so much confusion the opinion of a single senator may not be invoked to give to the statute a meaning which it would not have under the cardinal rules of statutory interpretation. We must resort to the language alone and so interpret it that meaning may be given to every word.

We do not assent to the proposition of counsel for the carriers that reference may be made to the debate in the Senate for any such purpose as that for which they have attempted to use it.

In 11 Encyclopedia of United States Supreme Court reports, 143, 144, there is a very complete resumé of the cases referring to the use which may be made of congressional debates. The reason against the use here attempted is stated in *United States against Trans-Missouri Freight Association*, 166 U. S., 290, 318, as follows:

> "The reason is that it is impossible to determine with certainty what construction was put upon an act by the members of a legislative body that passed it by resorting to the speeches of individual members thereon. Those who did not speak may not have agreed with those who did; and those who spoke might differ from each other."

The only conclusion to be drawn from the debate to which reference has been made by counsel for the carriers is that the whole matter was so confused that the courts in construing the statute must resort to the language alone and so interpret it that meaning and effect may be given to every word.

For the convenience of the Court we print as an appendix to this reply brief the debate in the Senate on the amendments to the venue section of the act abolishing the commerce court.

Respectfully submitted,

EDWARD J. BRUNDAGE,
Attorney General;
JAMES H. WILKERSON,
GEORGE T. BUCKINGHAM,
Assistant Attorneys General,
Solicitors for Appellants in Case No. 448.

APPENDIX.

Debate in the United States Senate on October 13, 1913, on Amendments 62 and 63 to Urgent Deficiency Act.

Mr. SUTHERLAND: I should like to say to the Senator from North Carolina that as I read the amendments a good deal of confusion is likely to result, particularly from amendment numbered 63. The provision as it came from the House was that "the venue of any suit hereafter brought to enforce, suspend, or set aside, in whole or in part, any order of the Interstate Commerce Commission shall be in the judicial district"——

Mr. OVERMAN: I cannot understand what the Senator is reading from. Is he reading from page 6763 of the Record?

Mr. SUTHERLAND: I am reading from the Senate print of the bill, page 37.

Mr. OVERMAN: The Senator is reading beginning in line 13.

Mr. SUTHERLAND: Beginning in line 13.

Mr. OVERMAN: If the Senator pleases, these amendments, I think, were recommended by the Attorney-General, and we put them on in the Senate and the House agreed to them.

Mr. SUTHERLAND: I am not prepared to discuss the question as to whether the House provision was wise or whether it should not have been amended as evidently it was intended to be amended, but I think that amendment numbered 63 is quite likely to introduce an element of confusion in the matter. Let me finish the reading of the provision from the House, continuing at the point where I was interrupted:

> "Where some or all of the transportation covered by the order has either its origin or destination, except that where the order does not relate to transportation, the venue shall be in the district where the matter complained of in the petition before the Commission arises."

That is understandable, at any rate, and it is enforceable at any rate. But the Senate introduced, after the word "transportation," the words "or is not made upon the petition of any party," so that in all cases where the order is not made upon the petition of any party the exception which was introduced by the House, "except that where the order does not relate to transportation," does not apply. In other words, where the order is not made upon the petition of any party, but relates to transportation, the venue shall be in the district where the matter complained of in the petition before the Commission arises.

Now, a matter relating to transportation may arise in more than one district. For example, articles being transported from Omaha to San Francisco, or in transportation through several States, therefore through several Federal judicial districts, and that particular matter will not arise in any particular district, but will arise in several districts; and when you have that kind of a case you have one that will not come within the provision of your law. I do not know whether I make the matter clear or not.

Mr. OVERMAN: I think the Senator is clear about that, and I think probably there ought to be an amendment, but it is now too late to do anything, because we have agreed to the conference report. That is settled, as far as this bill is concerned.

Mr. CLAPP: But we can reconsider the vote.

Mr. WALSH: Mr. President——

The VICE-PRESIDENT: Does the Senator from Utah yield to the Senator from Montana?

Mr. SUTHERLAND: I do.

Mr. WALSH: It does not occur to me that the provision

needs any further amendment. In any case, the provision to which our attention is now directed by the Senate was in the bill when it came from the House. The Senate acceded to that provision of the bill and added a provision of its own. No question has ever been raised up to the present time touching the features of the bill to which the Senator from Utah adverts, and it would seem as though the time had quite gone by when any amendment to the bill affecting that particular clause could be properly considered.

I desire to say in this connection, however, it does not occur to me that any difficulty at all will arise under circumstances such as are mentioned by the Senator. If, indeed, the subject does arise in two or three different States, obviously the venue will be in any one of the States in which the proceedings may be begun; that is to say, if the matter does not relate to transportation or "is not made upon the petition of any party," and it should arise in the States of Utah, Wyoming, and Nebraska, for instance, it seems to me the venue could be laid in any one of those three States.

Mr. SUTHERLAND: I am not at all certain that that is so.

Mr. POINDEXTER: Mr. President——

The VICE-PRESIDENT: Does the Senator from Utah yield to the Senator from Washington?

Mr. SUTHERLAND: In just a moment. The original House provision, beginning in line 15, reads:

> "Shall be in the judicial district where some or all of the transportation covered by the order has either its origin or destination"—

showing that the House evidently considered that it was necessary, if it was desirable to put the venue in any one of several districts, to say so, because they say, "where some or all of the transportation covered" had its origin.

The element of confusion, as I understand it, is introduced by the Senate amendment, which alters the sense of the original House provision, and with that amendment

it provides, in substance, that in some cases which relate to transportation the venue shall be in the district where the matter complained of in the petition arose.

Mr. WALSH: I desire to say to the Senator from Utah in explanation of the Senate amendment, because my recollection is he was not here at the time, that it was suggested upon the consideration that under the provision of the bill as it came from the other House, the carrier, who under all ordinary circumstances would be the party who would appeal to the courts for relief from any order that was made by the Interstate Commerce Commission, would have an option to lay the venue either in the State in which the transportation originated or in the State in which it terminated, notwithstanding the petitioners would be confined to only the one State; in other words, it was not intended to give an option to the carrier to select the venue as his own interests might seem to dictate, but to fix it definitely in the place where was the residence of the petitioners who gave rise to the proceedings in the first place.

Mr. SUTHERLAND: Mr. President, I do not care to pursue that matter further; it has probably passed beyond the stage where we can help it, but I——

Mr. POINDEXTER: Mr. President, before the Senator from Utah leaves that subject I think he ought to call attention also to the confusion which is involved in the statement of the class of actions, being those which do not relate to transportation, and cases that do not come up on the petition of any party. Then the language fixes the venue of that class of cases by reference to a matter complained of in the petition before the Commission.

Mr. SUTHERLAND: I was just going to call attention to that.

Mr. POINDEXTER: The matter complained of in the petition before the Commission is described as that in which there is no petition.

Furthermore, I make this further suggestion: It seems

to me if there is any possibility of revising the form of this provision, it ought to be borne in mind. The language goes on to add another class:

> "And except that where the order does not relate either to transportation or to a matter so complained of before the Commission."

That is exactly the same class that was described in the previous phrase where the number "63" occurs:

> "Where the order does not relate to transportation or is not made upon the petition of any party."

That is the same class of case. Then it goes on to say:

> "And except that where the order does not relate either to transportation or to a matter so complained of"—

That is, upon the petition of the party—

> "the matter covered by the order shall be deemed to arise in the district where one of the petitioners in court has either its principal office or its principal operating office."

The language is absolutely conflicting and almost impossible of construction so as to be consistent or coherent.

Mr. SUTHERLAND: I was about to call attention to the very thing of which the Senator from Washington has spoken. The whole trouble arises from the introduction by the Senate of the amendment. If the Senate had left the House amendment alone, the trouble could not have arisen. The Senate amendment is:

Or is not made upon the petition of any party—

Having already provided substantively with reference to cases which do not arise upon any petition at all, then it is provided that—

> "the venue shall be in the district where the matter complained of in the petition before the Commission arises."

It is an absolute contradiction in terms. Provision is first made for a case in which there is no petition at all, and then the venue is to be tested by a petition which does not exist.

Mr. WALSH: Mr. President, I think the Senator is quite in error about that. It is the petition of a party. Every proceeding is commenced upon proceeding or it is initiated by the Commission itself. Of course there has got to be some kind of a proceeding; some kind of a basis for it.

Mr. SUTHERLAND: How can there be a petition without a party to the petition?

Mr. WALSH: Because the Interstate Commerce Commission itself may institute proceedings before the Interstate Commerce Commission. Then it is not made on petition.

Mr. SUTHERLAND: Not on petition, certainly. The Interstate Commerce Commission does not petition itself.

Mr. WALSH: The word "petition" there, I apprehend, does not necessarily imply a prayer, because the term, as the Senator from Utah well knows, is frequently used to signify the declaration of complaint on original proceedings in any cause.

Mr. SUTHERLAND: If a matter comes before a commission or before a court on a motion of the party itself, certainly that matter does not arise by petition; it is a matter that is brought up on a motion of the court or by the commission. When we speak of a petition, we necessarily imply the petition of somebody, and that somebody is a party. Then we provide that in cases of that kind, which do not arise upon petition, the petition, which does not exist, shall govern the matter of venue.

Mr. OVERMAN: Mr. President, there is no question upon this. It is already agreed to. I move——

Mr. SUTHERLAND: I should like to ask the Senator from North Carolina whether it would be possible to reconsider the vote by which amendment numbered 63 was agreed to?

Mr. OVERMAN: No, Mr. President; because the matter has been in conference; it has been agreed to by the House of

Representatives, and is out of our hands. This can be corrected by future legislation if there is any trouble about it, but it cannot be now corrected here. It has passed beyond that stage. The language was not put in the bill on the floor of the Senate, but it came from the other body.

Mr. CLAPP: While it may be better to let the matter go, to be subsequently corrected, I would not want to sit in the chamber and be estopped by a declaration that a motion for the adoption of a conference report is not less subject to reconsideration in this body than any other motion, though I quite agree with the Senator from North Carolina that perhaps, in view of the situation, it is better to let this go now and correct it by subsequent legislation.

MR. MARTIN, of Virginia: Mr. President, while there is some little confusion in the language, I do not think there will be any trouble in the proper court taking jurisdiction. I do not believe, as a matter of practice, in the interpretation of this law and its enforcement that there can be any difficulty about the court taking jurisdiction and placing the venue in the place where the matter arose. Although it was not supported by a petition, the court would not be deterred by the inaccurate use of that language without explanation to forego a jurisdiction manifestly intended to be vested in it.

My own judgment is that it will not lead to any serious disturbance in the administration of this law; but, granted, we are really consuming time unnecessarily. It is impossible for us to correct this matter now. If this bill were to go back to conference we would be confronted with difficulties. I have no idea that there is a quorum of the House of Representatives in the city of Washington, and it would be absolutely futile for us to throw this bill back into conference unless we intend to indefinitely postpone it.

MR. SUTHERLAND: Let me ask the Senator from Virginia this question: He thinks it is a matter that would be easily taken care of. The language of the provision now is that where the order "is not made upon the petition of any party the venue shall be in the district where the matter complained of in the petition before the Commission arises."

MR. MARTIN, of Virginia: I think——

Mr. SUTHERLAND: Just a moment. That is the test of jurisdiction or of venue. Let me ask the Senator this question: Suppose that an order is made hereafter not upon the petition of any party, where is the venue of that order?

MR. MARTIN, of Virginia: It will be held where the cause of action arose under it.

MR. SUTHERLAND: Oh, no; it does not say so.

Mr. MARTIN, of Virginia: I think that is the way the court would interpret it.

Mr. SUTHERLAND: Where does the Senator find that provision?

MR. MARTIN, of Virginia: That is, if the court treated the language "in the petition" as having been obliterated, as having no intelligent application to the case, they would place the venue where the cause of action arose.

Mr. SUTHERLAND: But this is an exception, and it must be tested by its own provision. That exception is that where the order "is not made upon the petition of any party the venue shall be in the district where the matter complained of in the petition"—which does not exist—"before the Commission arises."

MR. MARTIN, of Virginia: My interpretation of the provision, that when the order does not relate to transportation or is not made upon the petition of any party the venue shall be in the district where the matter complained of in the petition before the Commission arises, is that they will treat it as of the words "complained of in the petition" were omitted from the statute entirely.

Mr. POINDEXTER: Mr. President——

MR. MARTIN, of Virginia: The court would treat it in fixing the venue as if those words were omitted from the statute, because they cannot be controlling, they cannot be pertinent, when no petition has been filed. Therefore the court would treat those words as omitted and fix the venue in the place where the matter complained of arose. I do not believe that there will be the slightest difficulty in the way of the court

in giving an interpretation that would fix the jurisdiction exactly as the statute intended it to be fixed. It is a little——

The VICE-PRESIDENT: Does the Senator from Virginia yield to the Senator from Washington?

MR. MARTIN, of Virginia: In one moment I will yield to the Senator.

It is a little inaccurately expressed; there is a little confusion in the language; I cannot undertake to gainsay that; but I believe it is a confusion for which the courts would readily find relief.

Now I will say to the Senator from Washington that I was occupying the floor by the courtesy of the Senator from Utah (Mr. Sutherland).

MR. POINDEXTER: If the Senator from Utah will allow me, before the Senator from Virginia takes his seat I will say that I know courts frequently do relieve statutes of patent inconsistencies by disregarding certain words which have no meaning when the statute cannot be construed without such action. The sentence which the Senator has read, it is true, might be so construed; but how would the Senator relieve the embarrassment which comes up in the next phrase, which not only includes a word which is without meaning, but states an exactly opposite and contrary venue? The phrase which the Senator has just discussed fixes the venue in the district where the matter arises, if we leave out the words which the Senator says the court will leave out. The next one fixes it in the same class of cases upon an entirely different rule, namely, in the district "where one of the petitioners in court has either its principal office or its principal operating office"—an exactly opposite rule in the same classification. The fact of the case is, there is no occasion at all to have that clause in the statute. It merely repeats the statement of the same class of cases and provides different venue for them. I would state, merely by way of suggestion, for there is apparently no way of correcting it now, that the provision would be cleared up if you would strike out entirely the words "complained of in the petition before the Commission," and

then strike out further, beginning with the word "and" in line 23, the remainder of that line, all of lines 24 and 25, and lines 1 and 2 on page 38, down to the word "office" and including that word in line 3 on page 38. With those words stricken out the provision would be complete and would be perfectly clear.

MR. MARTIN, of Virginia: The trouble is that the bill is not in the stage——

MR. POINDEXTER: If the Senator will allow me to complete my sentence—that would cover every possible case. In the first place, in those places which arise upon petition the venue would be in the district in which the petitioner resided upon whose petition the order was made, and in those cases which do not relate to transportation and are not brought upon petition the venue would be where the cause of action arises.

MR. BORAH: Mr. President, I agree with the suggestion of the Senator from Utah (Mr. Sutherland) as to what might be called the ambiguous or unfortunate use of the words referred to, but I am inclined to agree with the Senator from Virginia (Mr. Martin) as to the manner in which the court would construe the provision. The provision reads:

> "Or is not made upon the petition of any party, the venue shall be in the district where the matter complained of in the petition before the Commission arises."

The words "in the petition" are of course in a sense merely explanatory of the complaint. There might not be a technical petition, and yet in contemplation of law there would be a petition in whatever form a matter arose before the Commission, and it seems to me that the court would not have very much difficulty in arriving at the conclusion that what Congress intended in its unfortunate use perhaps of the language was that the venue should rest where the subject-matter complained of arose. I think that would be the construction of it.

Now, as to the suggestion which has been made by the

Senator from Washington (Mr. Poindexter). I do not exactly catch his suggestion, but the provision goes on to say:

> And except that where the order does not relate either to transportation or to a matter so complained of before the Commission——

If it arose out of a proposition covered by neither one of those expressions, then——

> the matter covered by the order shall be deemed to arise in the district where one of the petitioners in court has either its principal office or its operating office.

Does not the Senator from Washington think that that covers a venue which is not covered by the other propositions at all, because one of the others relates alone to transportation and the other to the matter complained of, but when neither matter is covered; that is to say, where the matter before the Commission relates neither to transportation nor the matter complained of, the venue shall be at the principal place of business.

Mr. Poindexter: Mr. President, it seems to me that it describes the same class of cases described in the clause immediately preceding. I do not see how a matter could be complained of before the Commission unless it is complained of by petition, and in all that class of cases where complaint is made by petition and where it relates to transportation the venue is stated in amendment numbered 62. Where it is not complained of by petition and does not relate to transportation the venue is stated in amendment 63. They cover all cases, but a third venue is stated for the same class of cases.

Mr. Walsh: Mr. President, I want to add just a word with respect to this discussion. The significance of the language is to be determined in connection with the proceedings before the Interstate Commerce Commission. Those proceedings belong to two classes. One class are proceedings

that are initiated upon the petition of a party; the other class are proceedings that are initiated by the Interstate Commerce Commission itself. The language was intended to cover the venue of both of those classes.

The first provision covers the cases in proceedings initiated upon the petition of a party in relation to transportation, while the other is intended to cover the cases in proceedings initiated by the Commission itself not brought by any party at all. When the Commission itself initiates proceedings it does so upon some foundation, some charge, some writing. That may not be properly denominated by the word "petition," but no one doubts what the significance of the word there is. Exactly the same difficulty would arise if you should cut out the words "of the petition" and should say that "the venue shall be where the matter complained of arose," but inasmuch as no one has filed any technical complaint you might say that the matter is not complained of. Of course if you give an exceedingly technical meaning to the language there could be no complaint without a party who is complaining, and yet the word "petition" is frequently used—and used in many of the code states—simply to designate the initial pleading upon which proceedings are instituted, and that is undoubtedly what it means here.

MR. SUTHERLAND: Mr. President, it may be that the courts will come to relieve this situation and straighten out this matter. As has been said by the Chairman of the Committee, the matter has passed the point where this body can do anything about it; but I cannot let the matter be finally disposed of without saying that it is a piece of exceedingly loose legislation. It is so unhappily worded and there is so much confusion in it that a responsible legislative body like the Senate of the United States ought to be ashamed to let it go upon the statute books.

[redacted]

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IN THE

Supreme Court of the United States.

OCTOBER TERM, A. D. 1917.

ILLINOIS CENTRAL RAILROAD COMPANY, *Appellant,* vs. STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, EDWARD J. BRUNDAGE, ATTORNEY GENERAL, ET AL., *Appellees.*	No. 416.	Appeals from the District Court of the United States for the Northern District of Illinois.
STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS, ET AL., *Appellants,* vs. UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, ILLINOIS CENTRAL RAILROAD COMPANY, ET AL., *Appellees.*	No. 448.	

ILLINOIS PASSENGER FARE CASES.

REPLY FOR THE CARRIERS.

The brief filed herein by the learned counsel for the Illinois State Authorities would give the impression that the investigation by the Commission had to do chiefly with freight rates, and that the inquiry into the passenger fares was incidental and somewhat cursory in character. Quite the contrary is the fact.

THE PETITION BEFORE THE INTERSTATE COMMERCE COMMISSION.

The petition filed before the Commission by the Business Men's League of St. Louis complained of each and all of the passenger fares, as well as the class and commodity freight rates, between St. Louis and each point in Illinois on the line of each defendant carrier. To illustrate the injustice and unreasonableness of the rates and the discrimination existing as between points named on interstate traffic, the portions of the tariffs of the several lines governing the traffic in question were set up in the petition. It was alleged that by reason of the facts stated the City of St. Louis and all the residents and citizens thereof were subjected to the payment of passenger fares and rates of transportation for freight which were unjust and unreasonable both absolutely and relatively in violation of Section 1 of the Act to Regulate Commerce, and unduly discriminatory and prejudicial in violation of Sections 2, 3 and 4 thereof; that said rates between St. Louis and points in Illinois were so unjust, unreasonable and unduly prejudicial and discriminatory as to deprive the various shippers and consignees doing business in St. Louis, including the members of the petitioning St. Louis association, of the benefits which under just, reasonable and nondiscriminatory rates would be afforded to such shippers and consignees at St. Louis, and that in many instances the rates were absolutely prohibitive of any commerce between St. Louis and points in Illinois. Further, that as a result of said unlawful rates competitors of St. Louis shippers and consignees were given an undue advantage in competitive territory in Illinois.

The prayer of the petition, among other things, was that the carriers be required to cease and desist from the

violations of the commerce act and to establish and put in force and apply such fares and freight rates as the Commission might deem reasonable and just, and that the carriers might be required to make such readjustment of the Illinois intrastate passenger, class and commodity rates in connection with such rates interstate between St. Louis and Illinois points as would result in St. Louis and the members of the complainant association and shippers and receivers of freight being freed from unjust, unreasonable, discriminatory and unduly prejudicial rates, and that such other and further order or orders might be made as the Commission might consider proper in the premises and the complainants' cause might appear to require. (Rec., 299.)

We submit the petition in this case is sufficiently broad to include an investigation of each and all of the passenger fares "between St. Louis and each point in Illinois on each line of each defendant" to the petition. (See petition before Commission, Rec., 299.)

In the petition of intervention filed on behalf of the Keokuk Industrial Association it is alleged that the cities of Keokuk and St. Louis are both located on the west bank of the Mississippi River, and are quite similarly situated. The petitioners ask that they be granted all the rights and privileges accorded to St. Louis, otherwise unjust discrimination would result. (Rec., 385.)

Even though the original and intervening petitions had not been, as they are, broad in their scope, the Commission, in making an investigation of the subject "had the power in the public interest, disembarrassed by any supposed admissions contained in the statement of the complainant, to consider the whole subject and the operation of the new classification in the entire territory, as also how far its going into effect would be just and reasonable, would create preference, or engender discrim-

ination; in other words, its conformity to the requirements of the act to regulate commerce." (*Cincinnati, H. & D. R. Co.* v. *Int. Commerce Com.*, 206 U. S., 142 (149).) Furthermore, since the Commission has jurisdiction to investigate and decide on its own motion if the evidence in any particular hearing justifies, it may (certainly as against a collateral attack) go beyond the issues made by the pleadings. *Eastern Texas Ry. Co.* v. *Railroad Commission of Texas,* 242 Fed., 300 (305).

In dealing with the facts before the Commission, counsel take from the report a list of four cities equi-distant from Chicago and St. Louis, showing the rates of fares from those cities to Chicago and St. Louis respectively. It is evident the purpose of counsel in printing this extract from the report is to show that the complaint before the Commission went to the proposition that St. Louis should have relief because Chicago was *competitive* with St. Louis as to those points which were equi-distant between the two cities. This is a misconception of the scope of the inquiry, which, as we have seen from the complainant's petition, was to remove *discrimination* against St. Louis when compared with points in Illinois generally, both as to passenger fares and freight rates. That the general subject of passenger fares between St. Louis and all points in Illinois was investigated is illustrated by the tables showing the fares between St. Louis and stations in Illinois *generally* as compared with the fares between East St. Louis and the same points. (See Rec., 34, 35.)

ST. LOUIS AND KEOKUK INJURED BY DISCRIMINATION.

Counsel state (Brief, p. 7) that "The proceedings before the Commission did not show real injury to the business of St. Louis growing out of the fact that passen-

gers defeated the interstate fare to St. Louis by getting off the train at East St. Louis and crossing the river some other way." They also state there is no evidence in the record as to discrimination against Keokuk in favor of points in Illinois directly across the river from Keokuk. Counsel cannot raise here the question of the sufficiency of the evidence to support the finding of the Commission. The forum for that issue is in the United States District Court for the Eastern District of Missouri. The fact is, however, the record is replete with testimony of the most positive character that the carriers were forced to discriminate against St. Louis in favor of Illinois points on account of the low intrastate fare law of the State of Illinois. See the testimony of the following witnesses: Niemoeller (Rec., 393, 395); Cunningham (Rec., 400, 401); Hatch (Rec., 442); Lanigan (Rec., 430, 431); Charlton (Rec., 445, 447); Versen (Rec., 487, 490) as to St. Louis; and as to Keokuk, that of witness McNamara (Rec., 600).

REPORTS OF THE COMMISSION TO BE READ WITH ITS ORDERS.

Criticism is made of the finding which counsel designates "(a)" in the Commission's report of July 12, 1916, in that there is no reference whatever to this finding of the report in the order of that date.

By reference to the language of the order it will be seen the report is made a part thereof. Obviously, therefore, resort may be had to the report for the purpose of interpreting and enforcing the order.

The order of October 17, 1916, also makes a part thereof the report of July 12, 1916.

Counsel say (Brief, p. 11) "Even under the broadest interpretation of which the order of July 12, 1916, is susceptible, it was narrow in scope, and affected a small

part of Illinois intrastate fares only." A reference to the evidence and the report hereinabove referred to will show the incorrectness of this statement.

Counsel state no further proceedings were had before the Commission after the order of July 12, 1916, and before the order of October 17, 1916. The purpose of the report and order of October 17, was to amplify the report and order of July 12. The making of the supplemental report and order without the taking of additional testimony is not criticisable, because it is clearly within the power of the Commission so to do. (Sec. 15 Act to Regulate Commerce.) The Commission conceived it to be its duty to make it clear to the carriers that it was the intent and purpose of the report and order of July 12, 1916, to embrace within the scope of the order the entire State of Illinois, for in the report of October 17, 1916, the Commission say:

> "And not only this burden, but the direct undue prejudice to St. Louis and Keokuk will also continue if the east side cities while on the face of the published tariff paying fares to and from Illinois points upon the same basis as do St. Louis and Keokuk can in practice defeat such fares by paying lower state fares in the aggregate to and from Illinois destinations, by virtue of such an adjustment of fares.
>
> It is our conclusion, and we so find, that any contemporaneous adjustments of fares between St. Louis or Keokuk and Illinois points, and generally within Illinois, which would permit the defeat of the St. Louis, Keokuk, East St. Louis, or any other east side city fares by methods such as described above, and which would thereby permit the continuance of the undue prejudice which we have found is suffered by St. Louis and Keokuk, and continue to burden interstate commerce, will not comply with the amended order entered herein." (Rec., 54.)

The order of October 17, 1916, requires the carriers to remove the discriminations found as follows:

> "It is further ordered that said defendants, ac-

cording as they participate in transportation, be and they are hereby notified and required to cease and desist, on or before January 15, 1917, and thereafter to abstain from the undue preferences and the undue and unreasonable prejudices and disadvantages found in said report to result from the contemporaneous maintenance between Illinois points of passenger fares, which fares, in combination with other fares required or permitted by this order, would produce the discrimination against interstate commerce, and the undue preferences in favor of intrastate commerce condemned in the report of the Commission." (Rec., 58 and 59.)

The criticism that there is no specific provision in the final order based upon finding designated by counsel as "(e)" of the original report, is untenable for the reason that finding "(e)" is amplified by the supplementary report of October 17th.

ORDER DEFINITE AND STATE-WIDE IN SCOPE.

Under Point I of the argument of counsel it is asserted that the order of the Commission is too indefinite to serve as a justification for disregarding the statutes of Illinois, and several cases are cited to the proposition that where there is a conflict between the Federal and State authorities the Commission's order cannot serve as a justification for disregarding the regulation or order issued by the State authority unless and in so far only as it is definite as to territory or points to which it applies. True. We insist, however, that in the case at bar, the language of the order of the Commission is clear, definite and certain, and that the unjust and unlawful discrimination against St. Louis and Keokuk and against interstate commerce can be removed only by raising the intrastate fares between all points in Illinois to the level of the interstate fares.

The trial court denied the relief prayed by the car-

riers, not on the ground that the order was not state wide in its scope, but that the order was beyond the power of the Commission to make. The court expressly found the order to be state wide, and said (Rec., 188):

> "The undoubted purpose and undoubted effect of the words the Commission used in its order of October 16th was to completely nullify the Illinois 2-cent rate, was to kill the Illinois 2-cent statute, and substitute for it the authority of the Interstate Commerce Commission of the United States, on the theory that the substitution was not merely authorized, but required in the discharge of its duty. * * * Now, what has the traffic official done? When he chose to raise the Illinois rate to the interstate 2.4-cent rate, he looked carefully over this order of the Commission and he found out that that order of the Commission contained such an arrangement of English words that he need not limit himself to relieving St. Louis and relieving Keokuk, but he was given the permission and authority to substitute a 2.4-cent rate between all intra-Illinois points."

Mr. Justice Brandeis said in the South Dakota Express case, "But the order, although less explicit than desirable, is, when read in connection with the railroad map, not lacking in the requisite definiteness." The railroad map of Illinois is attached to the record as an exhibit, introduced by the State authorities. From that map it is plain as we said in our original brief, that there is not a city or village in the whole State of Illinois which is not accessible by railroad to St. Louis, Chicago and Keokuk.

Referring to argument of counsel on page 24 of their brief, it obviously was the purpose of the report of October 17 to amplify the report and finding of July 12, 1916. Therefore we shall not discuss the provisions of the order of July 12th because neither the State nor the carriers can be concluded by the language of that order.

On page 25 of their brief, counsel fall into the error of

assuming that the competitive territory in which the discrimination was attempted to be removed by the order of the Commission is less in extent than the whole State of Illinois. As we have pointed out, the scope of the inquiry extends to each and all of the passenger fares between St. Louis and each point in Illinois on the line of each defendant to the petition before the Commission. (Rec., 299.)

INTERSTATE FARES DEFEATED.

Counsel say that reference is made in the supplementary report to points at which it is possible in *practice* to defeat the interstate fare, and that this clearly indicates there was a class of points in Illinois not intended to be covered by the language of the report. The fact is it is possible in practice to defeat the interstate rate at any intermediate point, and the example used in the supplementary report is therein definitely stated to be *illustrative* only and to refer to *any* intermediate point. Indeed, we may say the persistent fallacy in counsel's argument is they do not realize that unless the order is made as to intermediate points it would be practically a nullity.

The case of the *Chicago, Milwaukee & St. Paul Railroad Company* v. *The State Public Utilities Commission* (242 U. S., 333) is not in point, for the reason that the discrimination was not found by the Interstate Commerce Commission.

In the argument of counsel on page 27 of their brief, reference is made to the diagram in the supplemental report of the Commission which illustrates the manner in which passengers defeat the interstate fare by buying a ticket at the state rate from an Illinois point to East St. Louis or some other intermediate point near St.

Louis and then buying another ticket for the remainder of their trip into St. Louis at the interstate rate. And counsel argue that so long as the rates to East St. Louis and St. Louis are the same there can be no direct undue prejudice to St. Louis because the passenger may ride from an Illinois point to East St. Louis or another intermediate point at the state rate. And that if he gets off the train at the intermediate point he will be required to purchase his ticket at the same rate of fare, whether his destination be East St. Louis or St. Louis, and, therefore, counsel argue that there is no discrimination against St. Louis in favor of East St. Louis.

Assuming counsels' argument to be true, it necessarily follows that while the taking advantage of the state rate for a part of the journey does not show a discrimination against a locality, it is a very patent illustration of the fact that the state rate may be used as an instrumentality to directly defeat the interstate rate and thereby burden and interfere with interstate commerce.

ON COUNSEL'S OWN THEORY, THE COURT ERRED IN NOT GRANTING INJUNCTION PROTECTING CARRIERS IN OBEYING PARTS OF ORDER COUNSEL CONCEDE TO BE DEFINITE.

Under the heading, "Definite portions of the order may not be severed from those which are indefinite in order to save them," counsel admit that some parts of the order are definite but argue that they are so interwoven with the indefinite provisions that they may not be severed and applied separately. They invoke the application of the rule that where a statute contains provisions which are constitutional and others which are not, they may not be divided if it appears that the legislation would not have been enacted with the unconstitutional provisions eliminated. The cases cited by counsel are

not in point for the reason that the order here under consideration is clearly susceptible of division. Pursuant to its uniform custom the Commission divided the order into different parts.

Counsel having admitted as a basis for their argument that some of the parts of the order are definite, it follows that the definite parts should stand.

The prayer of the bills filed by the carriers in the instant case, included a prayer for general relief. It therefore inevitably follows that if any part of the order is definite, as counsel admit that is, the decree of the District Court is to that extent erroneous. We make this contention without prejudice to our position that the order of the Commission is in all respects definite and state-wide in its scope.

NO BASIS FOR ARGUMENT INVESTIGATION BEFORE COMMISSION WAS FOR BENEFIT OF CARRIERS INSTEAD OF ST. LOUIS AND KEOKUK.

The argument of counsel on page 31 of their brief that the Commission attempted to characterize as undue and unreasonable discrimination something which does not fall within the definition of those words, etc., and that the gist of the charge in the complaint is not that the business of St. Louis and Keokuk has been injured, but that the railroads have been prevented from collecting their full interstate fares, has no basis in view of the testimony in the record, hereinabove referred to, that the complaints of the Business Men's League of St. Louis and the Keokuk Association of Commerce are expressly predicated upon the proposition that the citizens of St. Louis and Keokuk were being discriminated against and their business injured by reason of the discrimination existing against interstate commerce.

ORDER CLEARLY WITHIN POWER OF COMMISSION.

Point II of counsels' brief entitled "The order as interpreted by the carriers is beyond the power of the Commission" is devoted to a discussion of the proposition that in the absence of Federal action the authority of a state is supreme respecting rates within its boundaries. And it is urged that from the language of Section 3 of the Commerce Act it is apparent

> "that so far as the relation between interstate and intrastate rates is concerned, the discrimination is, in the nature of things, limited to discrimination of which locality is an element, unless it is held that interstate commerce, as such, is a *particular* description of traffic, as is contended by the carriers in the case at bar."

And counsel further state that the proposition for which the carriers are contending in this case is substantially the same as the one which was asserted and overruled in the Minnesota Rate Cases.

It is beyond debate that in the absence of federal action the state law respecting intrastate rates is supreme. We are unable to see how there can be any confusion between the Minnesota Rate Cases and the facts presented by the case at bar.

In the Minnesota Rate Cases the carriers relied upon the proposition that the mere fact the state rates were lower than the interstate rates constituted a burden on the interstate commerce. In the case at bar there is a finding by the Commission of discrimination after an exhaustive hearing.

Counsel attempt to demonstrate that the Shreveport case is not decisive of the case at bar, because, they say, in the Shreveport case the question dealt with was discrimination between specific localities, whereas in this case the localities are not specific. In our original brief

we attempted to demonstrate that the order of the Commission was state-wide. We again refer to the seventh paragraph of the order of October 17, 1916, which reads as follows:

> "*It is further ordered,* That the above named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to establish and put in force on or before January 15, 1917, upon notice to this Commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in Section 6 of the Act to Regulate Commerce, and thereafter to maintain and apply to the transportation of passengers between St. Louis *and points in Illinois* fares upon a basis not in excess of the fares between East St. Louis, Ill., and the same points by more than a reasonable bridge toll; nor upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained *between Illinois points* intermediate *between St. Louis and points in Illinois,* as such fares have been found in said report to be unlawfully discriminatory." (The italics are ours.)

A like paragraph ordered the carriers to permit the citizens of Keokuk, also just over the boundary line, to reach Illinois points on fares no higher than those available to the inhabitants of Illinois cities when they desired to reach Illinois points.

St. Louis is connected by rail with every point in Illinois located on a railroad. So is Keokuk. The Commission, therefore, ordered the carriers to establish from East St. Louis and from points "directly opposite Keokuk" to every point in Illinois upon a line of railway passenger fares upon a basis not different from the basis in effect for fares from St. Louis and from Keokuk to all points in Illinois. The language of the order is clear. Read in the light of the well-known interrelation of rate structures under which tickets are purchasable by the

public from any station to any other station, it is more than clear that the Commission was dealing with the whole rate fabric in Illinois. It did not speak of separate *fares* between St. Louis and Illinois points or East St. Louis and Illinois points—it dealt always with a *"basis"* of fares, which supports the whole structure.

Furthermore, if the paragraph of the order quoted be read in connection with the report of the Commission, that places beyond question its state-wide application. In the South Dakota Express Case the court said (p. 626):

> "If the general words of the order are read alone, they might perhaps be understood as applying to rates between the five named South Dakota cities and *all* other 'points' in South Dakota. But the order explicitly makes the report which is filed therewith a part thereof.
>
> * * * The report makes it thus perfectly clear that the order applies only to 'points' in competitive territory."

Passenger travel is the foundation stone of commerce. Discrimination against interstate passenger travel and in favor of intrastate passenger travel is not only a discrimination against existing interstate commerce and undue preference in favor of intrastate commerce, but it effectually places a ban upon the development of interstate commerce in competition with intrastate commerce. The retail merchant either goes to the wholesale market or the wholesaler sends his representative to the retailer to secure his order for his commercial needs.

The inevitable effect of the position of the Illinois state authorities is not to permit either interstate passengers or interstate freight to move anywhere within Illinois upon terms of equality with intrastate passengers and intrastate freight. Interstate passenger travel for commercial purposes is not only discriminated against, but it is

ffectually discouraged if not prohibited by the Illinois assenger fare law complained of by St. Louis and Keo-ık.

EANING OF "PARTY" AS USED IN THE VENUE SECTION OF THE ACT ABOLISHING THE COMMERCE COURT.

This subject is discussed in the brief of counsel for ıe Illinois authorities on the cross appeal from the rder dismissing the cross bill as to the United States nd the Interstate Commerce Commission.

The true construction of the Urgent Deficiencies Act f October 22, 1913 (38 Stat., 219), in regard to the enue of any suit brought to enforce, suspend, or set side in whole or in part, any order of the Interstate ommerce Commission, is not difficult. The statute eads as follows:

> "The venue of any suit hereafter brought to enforce, suspend, or set aside, in whole or in part, any order of the Interstate Commerce Commission shall be in the judicial district wherein is the residence of the party or any of the parties upon whose petition the order was made, except that where the order does not relate to transportation or is not made upon the petition of any party the venue shall be in the district where the matter complained of in the petition before the Commission arises, and except that where the order does not relate either to transportation or to a matter so complained of before the Commission, the matter covered by the order shall be deemed to arise in the district where one of the petitioners in court has either its principal office or its principal operating office."

Where the word "party" is used, it means party be-ore the Commission, for in the one instance where there s no party before the Commission, the statute express-y says "petitioners in court."

If the word "party" meant "party in court," there

would have been no occasion to use the term "petitioners in court." That was obviously done to distinguish the party before the Commission from the "petitioner in court."

The passage upon which so much argument is based, "except that where the order does not relate to transportation or is not made upon the petition of any party the venue shall be in the district where the matter complained of in the petition before the Commission arises," covers the case where the Commission investigates of its own motion, as provided at the beginning of Section 15 of the Interstate Commerce Act. Where these investigations are made by the Commission of its own motion, frequently there are informal petitions and complaints, which furnish the foundation for the investigation. It may have been unnecessary for Congress to have taken notice of petitions of this class, but the fact that it referred to them should not be permitted to nullify the plain purpose of the statute to secure rights to parties who have prosecuted formal petitions before the Commission. In the present case, the order was made upon the formal petition of the Business Men's League of St. Louis, whose residence is outside of the Northern District of Illinois.

Where the terms of a statute are ambiguous, reference frequently has been made to the Congressional debates to ascertain the legislative history of the Act, the situation which prompted the legislation, and the purpose sought to be accomplished by it.

(*U. S.* v. *Coca-Cola Co.*, 241 U. S., 265, 281, 282, 283; Tap Line Cases, 234 U. S., 1, 27.)

The Congressional debates in connection with this legislation conclusively establish these facts concerning the venue section of this statute:

That it was necessary to provide for court review of two classes of proceedings before the Interstate Commerce Commission, viz: those initiated upon the formal petition of a complainant, and those initiated by the Interstate Commerce Commission itself, and that one purpose of the statute was to secure to formal complainants before the Commission the right to have the validity of the Commission's order tested in the district in which such complainants reside.

Urgent Deficiency Appropriation Bill, House No. 7898, was considered in the Senate by unanimous consent on October 3, 1913. The venue section of the bill as passed by the House and considered in the Senate was as follows:

> "The venue of any suit hereafter brought to enforce, suspend, or set aside, in whole or in part, any order of the Interstate Commerce Commission shall be in the judicial district *where some or all of the transportation covered by the order has either its origin or destination,* except that where the order does not relate to transportation the venue shall be in the district where the matter complained of in the petition before the Commission arises, and except that where the order does not relate either to transportation or to a matter so complained of before the Commission the matter covered by the order shall be deemed to arise in the district where one of the petitioners in court has either its principal office or its principal operating office. In case such transportation relates to a through shipment the term 'destination' shall be construed as meaning final destination of such shipment." (Italics ours.)
>
> (Cong. Rec., 63rd Cong., First Session, Vol. 50, page 5407.)

In considering the foregoing amendment, Senator Walsh said on October 3rd (Cong. Rec., 63rd Cong., First Session, Vol. 50, page 5413):

> "While I am speaking about that, let me call attention to another matter. The bill provides that these cases shall go for disposition to the various district courts of the country. It provides, further, that the venue of the action shall be in any district in which the transportation which is involved either originates or terminates. * * * It will be noted, Mr. President, that under the decision made by the Supreme Court the shipper is practically denied the right, whenever he is refused redress, to appeal to the court from the decision of the Commission. Accordingly, in nearly every instance, except when the carriers ask for a reduction in the rates or other relief, the appealing party is the carrier and not the shipper. The appealing party is given the right under this bill to have a review of any adverse order in any district in which the shipment originates, or that in which it has its termination.
>
> To illustrate: A petition is filed concerning shipments made from the State of Washington to the State of Minnesota, and the decision is in favor of the petitioner, who resides in the State of Washington. The origin of the transportation is in the State of Washington; the destination is in the State of Minnesota. The decision is in favor of the shipper. The railroad company appeals to the court from the order of the Commission. The railroad company is entitled to take its choice of instituting its suit either in the State of Minnesota or in the State of Washington. If, perchance, the State of Idaho, the State of Montana, or the State of North Dakota should choose to join with the State of Washington and ask for a reformation of the rates as they affect all shipments going into all these states, and the decision accords them the relief which they ask, the railroad company is entitled to take its choice of any one of the district courts in those states."

At page 5425 of the Congressional Record, *Ibid.*, on October 3, 1913, Senator Walsh introduced an amendment to the House Bill. He said:

> "Mr. President, before this matter is disposed of I wish to recur for a moment to an amendment on the subject of venue, to which I referred in my remarks some time ago.
>
> I have prepared an amendment which I think will cover the requirements of the case. I do not desire to press it unless the Senate feels that it is desirable to perfect the bill. I feel that to give the carrier an opportunity to make a choice of venue is a privilege which it ought not to be given."

The amendment was as follows:

> "On page 34 it is proposed to strike out all of line 16 after the word 'district,' also all of line 17, to and including the word 'destination,' or to strike out the following words:
>
> 'where some or all of the transportation covered by the order has either its origin or destination;'
>
> and to insert in lieu thereof the following:
>
> 'wherein is the residence of the party, or any of the parties, upon whose petition the order is made.'
>
> Also, in line 18, after the word 'transportation,' it is proposed to insert:
>
> 'or is not made upon the petition of any party.'"

The above amendment was agreed to on October 3, 1913. (Cong. Rec., *Ibid.*, page 5425.) The bill as amended was sent to conference. These amendments were known as Senate Amendments No. 62 and No. 63. The report of the conference committee recommended that the House accept this senate amendment. The report of the conference committee was received in the House on October 10, 1913. (Cong. Rec., page 5551.)

It was reported to the Senate on October 13, 1913. (Cong. Rec., page 5612.)

There was no discussion in the House on this amendment before passage. In the Senate, however, there was discussion. (Pages 5616 to 5619 of Congressional Record.) At page 5617 Senator Walsh gave this further explanation.

> "I desire to say to the Senator from Utah in explanation of the Senate amendment, because my recollection is he was not here at the time, that it was suggested upon consideration that under the provision of the bill as it came from the other House, the carrier, who under all ordinary circumstances would be the party who would appeal to the court for relief from any order that was made by the Interstate Commerce Commission, would have an option to lay the venue either in the state in which the transportation originated or in the state in which it terminated, notwithstanding that petitioners would be confined to only the one state; in other words, it was not intended to give the option to the carrier to select the venue as his own interests might seem to dictate, but to fix it definitely in the place where was the residence of *the petitioners who gave rise to the proceedings in the first case.*" (Italics ours.)

In answer to Senator Sutherland, Senator Walsh further said (*ibid*, page 5619):

> "Mr. President, I want to add just a word with respect to this discussion. *The significance of the language is to be determined in connection with the proceedings before the Interstate Commerce Commission. Those proceedings belong to two classes. One class are proceedings that are initiated upon the petition of a party; the other class are proceedings that are initiated by the Interstate Commerce Commission itself. The language was intended to cover the venue of both of those classes.*
>
> The first provision covers the cases in proceednigs initiated upon the petition of a party in relation to transportation, while the other is intended to

> cover the cases in proceedings initiated by the Commission itself and not brought by any party at all. When the Commission itself initiates proceedings it does so upon some foundation, some charge, some writing. That may not be properly denominated by the word 'petition,' but no one doubts what the significance of the word there is. Exactly the same difficulty would arise if you should cut out the words 'of the petition' and should say that 'the venue shall be where the matter complained of arose,' but inasmuch as no one has filed any technical complaint you might say that the matter is not complained of. Of course if you give an exceeding technical meaning to the language there could be no complaint without a party who is complaining, and yet the word 'petition' is frequently used—and used in many of the code States—simply to designate the initial pleading upon which proceedings are instituted, and that is undoubtedly what it means here." (Italics ours.)

It is plain from the foregoing excerpts from the Congressional Record that what Congress sought to do was to provide that orders of the Interstate Commerce Commission should be litigated in the District wherein resided the complainants before the Commission, and that in effectuating this purpose it used the word "party" to signify such complainants before the Commission, and not to signify one of the litigants in a suit to enforce, suspend or set aside the order, which latter were designated as "petitioners in court."

It is, therefore, clear that the order of the Commission could be attacked only in the Eastern Judicial District of Missouri, the place of residence of the Business Men's League of St. Louis the petitioner in the case before the Commission. No direct attack could be made on the order in the Northern District of Illinois. Therefore, any attack attempted to be made in that District is a collateral attack, and not a direct attack. Under the statute and the authorities, the order of the Commission

may not be attacked collaterally in any case. *Eastern Tex. R. Co.* v. *Railroad Com. of Texas,* 242 Fed., 300 (305).

The opinion of the Supreme Court of Arkansas in the case of *St. Louis, I. M. & S. Ry. Co.* v. *State,* referred to under Point II of our original brief is now reported in volume 197 Southwestern Reporter, page 1.

For the convenience of the court an analysis of the order of the Commission here involved is made an appendix to this reply.

Respectfully submitted,

SILAS H. STRAWN,
ROBERT BRUCE SCOTT,
ANDREW P. HUMBURG,
Solicitors for Carriers.

Of Counsel.

Gardiner Lathrop and T. J. Norton,
For The Achison, Topeka & Santa Fe Railway Company,

Edward C. Kramer,
For The Baltimore & Ohio Southwestern Railroad Company,

O. M. Spencer and Robert Bruce Scott,
For Chicago, Burlington & Quincy Railroad Company,

John Barton Payne,
For Chicago Great Western Railroad Company,

Burton Hanson and O. W. Dynes,
For Chicago, Milwaukee & St. Paul Railway Company,

P. B. Warren,
For Chicago, Peoria & St. Louis Railroad Company and Bluford Wilson and Wm. Cotter, Receivers,

M. L. Bell and W. F. Dickinson,
For The Chicago, Rock Island & Pacific Railway Company,

Silas H. Strawn and Walter H. Jacobs,
For The Chicago & Alton Railroad Company,

Homer T. Dick,
For Chicago & Eastern Illinois Railroad Company and Wm. J. Jackson, Receiver,

Silas H. Strawn and Walter H. Jacobs,
For Chicago & Illinois Midland Railway Company,

Edward M. Hyzer, C. C. Wright, E. M. Smart and R. H. Widdicombe,
For Chicago & North Western Railway Company,

L. J. Hackney and Charles P. Stewart,
For The Cleveland, Cincinnati, Chicago & St. Louis Railway Company,

Harvey J. Elam,
For The Cincinnati, Indianapolis & Western Railroad Company,

Blewett Lee, Walter S. Horton and Andrew P. Humburg,
For Illinois Central Railroad Company,

Edward C. Kramer,
For The Illinois Southern Railway Company,

Robert J. Cary,
For The Lake Erie & Western Railroad Company,

H. L. Stone, W. A. Northcutt, J. M. Hamill and Edward D. Mohr,
For Louisville & Nashville Railroad Company,

Silas H. Strawn and Walter H. Jacobs,
For The Michigan Central Railroad Company,

F. M. Miner and Shirley T. High,
For The Minneapolis & St. Louis Railroad Company,

Alfred H. Bright and John L. McInerney,
For Minneapolis, St. Paul & Sault Ste. Marie Railway Company,

Sidney R. Prince and Edward C. Kramer,
For Mobile & Ohio Railroad Company,

Robert J. Cary,
For The New York Central Railroad Company,

D. P. Williams and R. W. Richards,
For Pittsburgh, Cincinnati, Chicago & St. Louis Railway Company,

Robert Bruce Scott,
For Rock Island Southern Railway,

Alexander P. Humphrey and Edward C. Kramer,
For Southern Railway Company,

Edward J. White, Henry G. Herbel and Fred G. Wright,
For St. Louis, Iron Mountain & Southern Railway Company and B. F. Bush, Receiver,

Clarence Brown,
For Toledo, St. Louis & Western Railroad Company and W. L. Ross, Receiver,

J. M. Elliott,
For Toledo, Peoria & Western Railway Company,

J. L. Minnis and N. S. Brown,
For Wabash Railway Company.

APPENDIX.

1. INTRASTATE FARES BETWEEN EAST SIDE POINTS AND POINTS IN ILLINOIS. CONCERNING ALSO FARES BETWEEN POINTS IN ILLINOIS INTERMEDIATE BETWEEN ST. LOUIS AND KEOKUK AND POINTS IN ILLINOIS.

(a) *Intrastate fares between East St. Louis and points in Illinois, and between points in Illinois intermediate between St. Louis and points in Illinois.*

Analytically arranged, the *order* of the Commission, with respect to these particular fares, reads as shown on this page and the one following.

"It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to *cease and desist*, on or before January 15, 1917, and thereafter to abstain, from publishing, demanding, or collecting

(1) passenger fares between *St. Louis, Mo.*, and points in Illinois *upon a basis*

(a) higher than 2.4 cents per mile, bridge tolls excepted, which basis was found reasonable in said report,

(b) or higher than the fares contemporaneously exacted for the transportation of passengers between East St. Louis, Ill., and the same Illinois points, by more than a reasonable bridge toll;

(c) or fares constructed upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained *between Illinois points intermediate between St. Louis, Mo., and points in Illinois,*

as such fares have been found in said report to be unlawfully discriminatory." (Rec., 56.)

"It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and *required to establish* and put in force on or before January 15, 1917, upon notice to this Commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in section 6 of the act to regulate commerce, and thereafter to maintain and apply

(5) to the transportation of passengers between St. Louis and points in Illinois fares upon a basis

(a) not in excess of the fares between East St. Louis, Ill., and the same points by more than a reasonable bridge toll;

(b) nor upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained *between Illinois points intermediate between St. Louis and points in Illinois,*

as such fares have been found in said report to be unlawfully discriminatory." (Rec., 57.)

The Commission's *findings* with respect to the fares and traffic between St. Louis and points in Illinois as compared with the fares and traffic between East St. Louis and the same Illinois points read:

"We are of opinion and find, for the purposes of ending the discrimination found herein,

(1) that the passenger fares for travel between St. Louis, Mo., and points in Illinois are just and reasonable maximum fares where not in excess of 2.4 cents per mile, tolls over Mississippi bridges at St. Louis excepted;

(2) that the contemporaneous maintenance of fares between St. Louis, Mo., and points in Illinois, except those for Mississippi River crossings at St. Louis, *and of the fares between points in Illinois, the route being wholly intrastate,* said points being reached from St. Louis via East St. Louis, Madison, or Granite City, Ill.,

(*a*) gives undue and unreasonable preference and advantage

(1) to *intrastate passenger traffic* in the state of Illinois,

(2) and to the *localities within said state;*

(*b*) and subjects interstate passenger traffic between St. Louis, Mo., and Illinois points to undue and unreasonable prejudice and disadvantage;

(3) that the tolls collected for crossing bridges over the Mississippi at St. Louis are just and reasonable;

(4) and that the contemporaneous maintenance by the defendants herein between East St. Louis, Madison, Ill., and Granite City, Ill., and Illinois points by intrastate routes, of fares lower than those maintained between St. Louis, Mo., and the same Illinois points via the same routes by more than the present bridge tolls,

(*a*) gives undue and unreasonable preference and advantage

(1) to the three Illinois points named above,

(2) and to Illinois intrastate passenger traffic originating or terminating thereat,

(b) and subjects St. Louis, Mo., and the passenger traffic between St. Louis, Mo., and Illinois points specified above to undue and unreasonable prejudice and disadvantage;

(5) and that the aforesaid *preference and advantage to intrastate passenger travel in Illinois and to the Illinois points thereby preferred and advantaged creates and imposes an unreasonable and unlawful burden on interstate passenger traffic.''* (Rec., 45-46, Commission's report July 12, 1916, 41 I. C. C., 27-28.)

In its supplemental report of October 17, 1916, covered by subdivision 3 below, are found the Commission's further findings with respect to fares between points in Illinois intermediate between *St. Louis* and points in Illinois.

(b) *Intrastate fares between points opposite Keokuk and points in Illinois, and between points in Illinois intermediate between Keokuk and points in Illinois.*

"It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to *cease and desist*, on or before January 15, 1917, and thereafter to abstain, from publishing, demanding, or collecting

(3) passenger fares between *Keokuk, Iowa,* and points in Illinois *upon a basis*

(a) higher than 2.4 cents per mile, bridge tolls excepted, which basis was found reasonable in said report,

(b) or higher per mile than the fares contemporaneously exacted for the transportation of passengers between Illinois points directly opposite to Keokuk and the same Illinois points, by more than a reasonable bridge toll;

(c) or fares constructed upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained *between Illinois points intermediate between Keokuk, Iowa, and points in Illinois,*

as such fares have been found in said report to be unlawfully discriminatory." (Rec., 57.)

"It is further ordered, that the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and *required to establish* and put in force on or before January 15, 1917, upon notice to this Commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in Section 6 of the Act to Regulate Commerce, and thereafter to maintain and apply

(7) to the transportation of passengers between *Keokuk, Iowa,* and points in Illinois fares *upon a basis*

(a) not in excess of 2.4 cents per mile, bridge tolls excepted, which basis has been found reasonable in the said report nor in excess per mile of the fares between points in Illinois directly opposite to Keokuk and the same points by more than a reasonable bridge toll;

(b) nor upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously effective *between Illinois points intermediate between Keokuk, Iowa, and points in Illinois.*" (Rec., 58.)

The Commission's *findings* with respect to fares and traffic between points in Illinois opposite Keokuk on the one hand and points in Illinois on the other, as compared with fares and traffic between Keokuk and points in Illinois, read as follows:

"We are further of opinion and find, for the purposes of ending the discrimination found herein,

(1) that the passenger fares for travel between Keokuk, Iowa, and points in Illinois are just and reasonable maximum fares where not in excess of 2.4 cents per mile, tolls over the Mississippi River bridge excepted;

(2) that the tolls collected for crossing the bridge over the Mississippi at Keokuk are just and reasonable;

(3) and that the contemporaneous maintenance by the defendants herein between points in Illinois directly opposite Keokuk, Iowa, and other Illinois points by intrastate routes, of fares lower than those maintained between Keokuk, Iowa, and those same Illinois points via the same routes by more than the present bridge toll

(*a*) gives undue and unreasonable preference and advantage

(1) to the Illinois points directly opposite Keokuk,

(2) and to the Illinois intrastate state passenger traffic originating or terminating thereat,

(*b*) and subjects Keokuk, Iowa, and the passenger traffic between Keokuk, Iowa, and said Illinois points to undue and unreasonable prejudice and disadvantage;

(4) and that the aforesaid preference and advantage to intrastate passenger travel in Illinois and to the Illinois points thereby preferred and advantaged creates and imposes an unreasonable and unlawful burden on interstate passenger traffic." (Rec., 46, Commission's report July 12, 1916, 41 I. C. C., 28.)

In its supplemental report of October 17, 1916, covered by subdivision 3 below, are found the Commission's further findings with respect to fares between points in Illinois intermediate between *Keokuk* and points in Illinois.

2. INTRASTATE FARES BETWEEN CHICAGO AND POINTS IN ILLINOIS.

The several parts of the Commission's order of October 17, 1916, in so far as they relate to these fares, read as follows:

"It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to *cease and desist*, on or before January 15, 1917, and thereafter to abstain, from publishing, demanding, or collecting

(2) fares for the transportation of passengers between St. Louis, Mo., and points in Illinois,

the basis of which per mile, bridge tolls excepted, is higher than the basis per mile for fares contemporaneously maintained between *Chicago* and the same Illinois points,

as such fares have been found in said report to be unlawfully discriminatory." (Rec., 56-57.)

"It is further ordered, that the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and *required to establish* and put in force on or before January 15, 1917, upon notice to this Commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in Section 6 of the Act to Regulate Commerce, and thereafter to mainfain and apply

(6) to the transportation of passengers between St. Louis, Mo., and points in Illinois fares, the basis of which per mile, bridge tolls excepted, is not higher than the basis per mile for fares contemporaneously maintained between *Chicago* and those same Illinois points." (Rec., 58.)

"It is further ordered, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to *cease and desist*, on or before January 15, 1917, and thereafter to abstain, from publishing, demanding, or collecting

(4) fares for the transportation of passengers between *Keokuk, Iowa,* and points in Illinois,

the basis of which per mile, bridge tolls excepted, is higher than the basis per mile for fares contemporaneously maintained between *Chicago* and the same Illinois points,

as such fares have been found in said report to be unlawfully discriminatory." (Rec., 57.)

"It is further ordered, that the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and *required to establish* and put in force on or before January 15, 1917, upon notice to this Commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in Section 6 of the Act to Regulate Commerce, and thereafter to maintain and apply

(8) to the transportation of passengers between *Keokuk, Iowa,* and points in Illinois fares, the basis of which per mile, bridge tolls excepted, is not higher than the basis per mile for fares contemporaneously maintained between *Chicago* and those same Illinois points." (Rec., 58.)

The *findings* of the Commission with respect to intrastate fares between Chicago and points in Illinois are that it finds, for the purposes of ending the discrimination found:

"That passenger fares between St. Louis and Keokuk and points in Illinois are unjustly discriminatory as against St. Louis and Keokuk and *unduly preferential in favor of Chicago* to the extent that the fares between St. Louis and Keokuk and the aforesaid Illinois points exceed the fares between Chicago and those same Illinois points, where the distances are approximately equal, by more than a reasonable bridge toll." (Rec., 46, Commission's report July 12, 1916, 41 I. C. C., 28.)

3. INTRASTATE FARES PRODUCING CONDEMNED DISCRIMINATION AGAINST INTERSTATE COMMERCE AND PREFERENCE IN FAVOR OF INTRASTATE COMMERCE.

The last paragraph of the Commission's series of joint and several *orders* of October 17, 1916, reads:

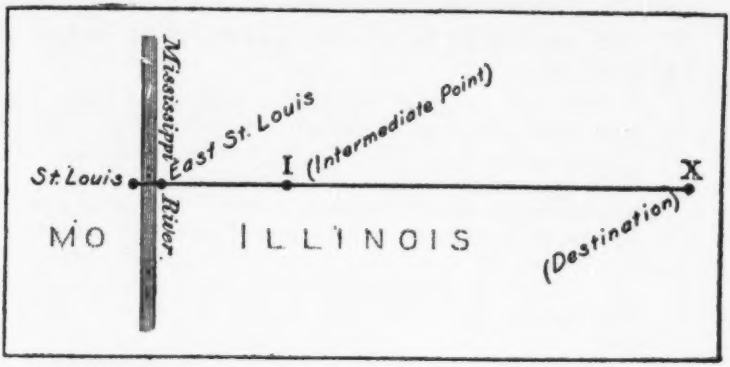
> (9) *It is further ordered,* That said defendants, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before January 15, 1917, and thereafter to abstain,
>
> from the undue preferences and the undue and unreasonable prejudices and disadvantages found in said report to result from the contemporaneous maintenance *between Illinois points* of passenger fares, which fares, in combination with other fares *required or permitted by this order, would produce the discrimination against interstate commerce and the undue preferences in favor of intrastate commerce condemned in the report of the Commission.*" (Rec., 58-59.)

The specific *finding* made by the Commission in its supplemental report of October 17, 1916, reads as follows:

> "It is our conclusion, and we so find, that any contemporaneous adjustments of fares between St. Louis or Keokuk and Illinois points, *and generally within Illinois,* which would permit the defeat of the St. Louis, Keokuk, East St. Louis, or any other east side city fares by methods such as described above, and which would thereby permit the continuance of the undue prejudice which we have found is suffered by St. Louis and Keokuk, and continue to burden interstate commerce, will not comply with the amended order entered herein." (Rec., 54.)

In the Commission's supplemental report of October 17, 1916, leading up to this last named finding, appears the following:

> "In our original report in this proceeding it was shown how the lower state fares within Illinois furnished a means whereby passengers could and did defeat the lawfully established interstate fares between St. Louis and Illinois points. This was done by using interstate tickets purchased at interstate fares from St. Louis to an east side point in Illinois and thence continuing the journey to any Illinois destination on a ticket purchased at the lower state fare. See 41 I. C. C., pages 19 and 20.
>
> We deem it advisable to point out that the interstate fares between St. Louis and Keokuk on the one hand and interior Illinois points on the other, made on a per mile basis of 2.4 cents, would likewise be subject to defeat if the state fares to and from interior Illinois points intermediate to the passenger's ultimate destination be made upon a basis lower than the fares applying between St. Louis or Keokuk and such Illinois destination. It would be necessary merely for the passenger who desired to defeat the interstate fare to shift the intermediate point at which to purchase his state ticket. Thus, as illustrated by the diagram below, the lawful interstate fare could be defeated so long as the state fares between any intermediate point, I, and the ultimate destination, X, are on a basis per mile lower than the fares between St. Louis and X. *The burden and discrimination which a lower basis of fares within the state casts upon the interstate commerce would not be removed merely by an increase in the intrastate fares to and from the east bank points.*



NOTE.—Assume a fare adjustment, ostensibly complying with the original order herein, on the following basis per mile:
Between St. Louis and East St. Louis, basis bridge toll.
Between St. Louis and I, basis 2.4 cents plus bridge toll.
Between St. Louis and X, basis 2.4 cents plus bridge toll.
Between East St. Louis and I, basis 2.4 cents.
Between East St. Louis and X, basis 2.4 cents.
Between I and X, basis 2 cents.

> And not only this burden, but the direct undue prejudice to St. Louis and Keokuk will also continue if the east side cities while on the face of the published tariff paying fares to and from Illinois points upon the same basis as do St. Louis and Keokuk can in practice defeat such fares by paying lower state fares in the aggregate to and from Illinois destinations, by virtue of such an adjustment of fares." (Rec., 53-54.)

Another finding made by the Commission in its report on July 12, 1916, emphasizing the unlawful burden on interstate commerce by the lower fares applied to intrastate commerce, reads as follows:

> "We are further of opinion and find that *intrastate fares* on the reasonably direct lines of defendants herein lying in the territory intermediate to Chicago, Ill., at the north, and St. Louis, Mo., and Keokuk, Iowa, on the south and southwest *impose an unlawful burden on interstate commerce in case the basis of such fares per mile is less than the basis per mile for fares for interstate* passenger travel between Keokuk, Iowa, and St. Louis, Mo., and Illinois points situate in the general territory first described and reached by reasonably direct routes of defendants herein, bridge tolls excepted." (Rec., 46-47.)

Syllabus.

ILLINOIS CENTRAL RAILROAD COMPANY *v.* STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS ET AL.

STATE PUBLIC UTILITIES COMMISSION OF ILLINOIS ET AL. *v.* UNITED STATES ET AL.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

Nos. 416, 448. Argued October 8, 9, 1917.—Decided January 14, 1918.

Suits brought by carriers to restrain state officials from interfering with the establishment and maintenance of intrastate rates which the carriers have adopted in pursuance of an order of the Interstate Commerce Commission requiring the removal of discrimination against interstate commerce, are not suits to "enforce" the order in the sense of the jurisdictional provision of the Act of October 22, 1913, c. 32, 38 Stat. 219, and need not be brought in the district "wherein is the residence of the party or any of the parties upon whose petition the order was made." They come within the provision in § 1 of the Act of June 18, 1910, c. 309, 36 Stat. 539, repeated in Jud. Code, § 207, by which the general jurisdiction over cases not therein enumerated is preserved.

In such a suit neither the United States nor the Commission is a necessary party, either by statute or under the rules governing suits in equity.

As, by the jurisdictional provision of the Act of October 22, 1913, *supra*, a suit to set aside an order of the Commission, relating to transportation and made upon petition, may be brought only in the district of the petitioner's residence, and as the United States has not consented to be thus impleaded in any other district, and its immunity from suit recognizes no distinction between cross and original bills, or ancillary and original suits, it follows that the District Court of another district, in a suit by a carrier against state officials in aid of such an order, cannot entertain a cross bill seeking to have the order declared void and to enjoin the United States and the Commission from enforcing it and the carrier from complying with it.

Nor may such cross bill be entertained as against the Commission and the carrier only; under Jud. Code, §§ 208, 211, the United States is a necessary party, as the representative of the public.

When, in the exercise of the power constitutionally reposed in it by the Act to Regulate Commerce, the Commission finds that a disparity in interstate and intrastate rates is resulting in unjust discrimination against interstate commerce, and also determines what are reasonable rates for the interstate traffic and directs the removal of the discrimination, the carrier is not only entitled to put in force the interstate rates found reasonable but is free to remove the forbidden discrimination by bringing the intrastate rates (though fixed by state authority) to the same level. *The Shreveport Case*, 234 U. S. 342; *Adams Express Co.* v. *Caldwell*, 244 U. S. 617.

In such case, the Commission may make the order as broad as the wrongful discrimination, but the extent of the discrimination found and of the remedy applied must be gathered from the reports and order of the Commission; and, to be effective in respect of intrastate rates established and maintained under state authority, the order must have a definite field of operation and not leave uncertain the territory or points to which it applies. Such an order should not be given precedence over a state rate statute, otherwise valid, unless, and except in so far as, it conforms to a high standard of certainty.

Affirmed.

THESE cross appeals present a controversy over the validity, scope and effect of an order of the Interstate Commerce Commission dealing with discrimination found to result from a disparity in interstate and intrastate passenger rates. The facts and proceedings to be considered are these: The Mississippi River forms the boundary between the States of Missouri and Iowa on the west and the State of Illinois on the east. East St. Louis, in southwestern Illinois, is directly across the river from St. Louis, Missouri, and Hamilton, in western Illinois, is directly across the river from Keokuk, Iowa. At both places the river is spanned by railroad bridges whereby the lines of railroad on one side are connected with those on the other. For some years prior to December 1, 1914, interstate passenger rates between St. Louis and Keokuk on the one hand and points in Illinois on the other were on a sub-

stantial parity with intrastate rates between East St. Louis and Hamilton, respectively, and points in Illinois. All were on a basis of 2 cents per mile, save that the rates to and from St. Louis and Keokuk included a bridge toll over the river. All other rates between points in Illinois were also on the same basis, any intrastate rate in excess of 2 cents per mile being prohibited by a statute of that State. On December 1, 1914, the rates between St. Louis and Keokuk, respectively, and points in Illinois were increased by the carriers to 2½ cents per mile, plus bridge tolls, the parity theretofore existing being thereby broken. Following this increase the Business Men's League of St. Louis, a corporate body of that city engaged in fostering its interests, filed with the Interstate Commerce Commission a petition against the carriers charging that the rates between St. Louis and points in Illinois were unreasonable in themselves, and, in connection with the lower intrastate rates, worked an unreasonable discrimination against St. Louis and in favor of Illinois cities, particularly East St. Louis and Chicago, and a like discrimination against interstate passenger traffic to and from St. Louis and in favor of intrastate passenger traffic to and from East St. Louis and Chicago. An association representing interests in Keokuk, Iowa, intervened and urged that any relief granted with respect to St. Louis be extended to Keokuk, so the former would not have an undue advantage over the latter. The State of Illinois, the Public Utilities Commission of that State, an association representing interests in Chicago and another association representing interests in East St. Louis, also intervened and opposed any action contemplating or requiring an increase in intrastate rates. After a hearing, in which all the parties and intervenors participated, the Interstate Commerce Commission filed a report (41 I. C. C. 13) finding that the existing bridge tolls at St. Louis and Keokuk were unobjectionable, that rates between

either of those cities and points in Illinois were reasonable when not in excess of 2.4 cents per mile, plus bridge tolls, and that the service, equipment and accommodations provided for intrastate passengers to and from East St. Louis, Hamilton, and Chicago, were the same as those provided for interstate passengers to and from St. Louis and Keokuk. In that report the Commission also found that the contemporaneous maintenance between East St. Louis [1] and Hamilton,[2] respectively, and other points in Illinois, of rates on a lower basis than those maintained via the same routes between St. Louis and Keokuk, respectively, and the same points in Illinois, bridge tolls excepted, gave an undue preference to East St. Louis and Hamilton and to intrastate passenger traffic to and from the latter points, and subjected St. Louis and Keokuk and interstate passenger traffic to and from those cities to an unreasonable disadvantage; that the existing disparity in interstate and intrastate rates worked an unjust discrimination against St. Louis and in favor of Chicago in so far as the rates between St. Louis and points in Illinois approximately equidistant from those cities exceeded, by more than the bridge toll, the rates between Chicago and the same points; that the disparity worked a like discrimination against Keokuk and in favor of Chicago; and that the existence on the reasonably direct lines of the carriers in the territory between Chicago on the one hand and St. Louis and Keokuk on the other of intrastate rates on a lower basis per mile than the rates between that territory and St. Louis and Keokuk, bridge tolls excepted, operated to subject interstate traffic to an unreasonable disadvantage.

[1] The report similarly speaks of other towns across the river from St. Louis, East St. Louis being here mentioned as representative of all.

[2] The report refers to a plurality of points opposite Keokuk, but it suffices here to mention Hamiliton.

The Commission then made an order intended to result in the installation of rates not exceeding 2.4 cents per mile between St. Louis and Keokuk, respectively, and points in Illinois and to remove the discrimination shown in the report; but shortly thereafter the Commission recalled that order and filed a supplemental report (41 I. C. C. 503) indicating that lawful interstate rates between St. Louis and Keokuk on the one hand and Illinois points on the other could be defeated by the use of two tickets, one purchased at the interstate rate for a part of the journey and the other at the lower intrastate rate for the remainder, and therefore that the order should be so framed as to cover the rates between the intermediate points. In this connection it was said that the discrimination against interstate traffic resulting from the lower intrastate rates "would not be removed merely by an increase in the intrastate fares to and from the east bank points," and that "any contemporaneous adjustments of fares between St. Louis or Keokuk and Illinois points, and generally within Illinois, which would permit the defeat of the St. Louis, Keokuk, East St. Louis, or any other east side city fares by methods such as described above, and which would thereby permit the continuance of the undue prejudice which we have found is suffered by St. Louis and Keokuk, and continue to burden interstate commerce," would not comply with the order about to be entered. An order was then made, which is copied in the margin.[1]

[1] The order is dated October 17, 1916, and, omitting the caption, reads as follows:

"*It appearing*, That on July 12, 1916, the Commission entered its report and order in this proceeding, and on the date hereof a supplemental report, which reports are hereby referred to and made a part hereof:

"*It is ordered*, That the said order of July 12, 1916, be, and it is hereby, vacated, and that the following be substituted therefor:

"*It is further ordered*, That the above-named defendants, accord-

In obedience to that order the carriers—of whom there were 29—took the requisite steps to establish and put in force interstate rates on a basis of 2.4 cents per mile between St. Louis and Keokuk, respectively, and points in Illinois, and those rates became effective. Then,

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ing as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before January 15, 1917, and thereafter to abstain, from publishing, demanding, or collecting passenger fares between St. Louis, Mo., and points in Illinois upon a basis higher than 2.4 cents per mile, bridge tolls excepted, which basis was found reasonable in said report, or higher than the fares contemporaneously exacted for the transportation of passengers between East St. Louis, Ill., and the same Illinois points, by more than a reasonable bridge toll; or fares constructed upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained between Illinois points intermediate between St. Louis, Mo., and points in Illinois, as such fares have been found in said report to be unlawfully discriminatory.

"*It is further ordered*, That the above defendants, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before January 15, 1917, and thereafter to abstain, from publishing, demanding, or collecting fares for the transportation of passengers between St. Louis, Mo., and points in Illinois, the basis of which per mile, bridge tolls excepted, is higher than the basis per mile for fares contemporaneously maintained between Chicago and the same Illinois points, as such fares have been found in said report to be unlawfully discriminatory.

"*It is further ordered*, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before January 15, 1917, and thereafter to abstain, from publishing, demanding, or collecting passenger fares between Keokuk, Iowa, and points in Illinois upon a basis higher than 2.4 cents per mile, bridge tolls excepted, which basis was found reasonable in said report, or higher per mile than the fares contemporaneously exacted for the transportation of passengers between Illinois points directly opposite to Keokuk and the same Illinois points, by more than a reasonable bridge toll; or fares constructed upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained between Illinois points

believing the order required all intrastate rates in Illinois to be on a level with those interstate rates, bridge tolls excepted, the carriers proceeded to establish and put in force new rates between all points in that State on a basis of 2.4 cents per mile. This met with opposi-

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intermediate between Keokuk, Iowa, and points in Illinois, as such fares have been found in said report to be unlawfully discriminatory.

"*It is further ordered*, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before January 15, 1917, and thereafter to abstain, from publishing, demanding, or collecting fares for the transportation of passengers between Keokuk, Iowa, and points in Illinois, the basis of which per mile, bridge tolls excepted, is higher than the basis per mile for fares contemporaneously maintained between Chicago and the same Illinois points, as such fares have been found in said report to be unlawfully discriminatory.

"*It is further ordered*, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to establish and put in force on or before January 15, 1917, upon notice to this Commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in section 6 of the act to regulate commerce, and thereafter to maintain and apply to the transportation of passengers between St. Louis and points in Illinois fares upon a basis not in excess of the fares between East St. Louis, Ill., and the same points by more than a reasonable bridge toll; nor upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously maintained between Illinois points intermediate between St. Louis and points in Illinois, as such fares have been found in said report to be unlawfully discriminatory.

"*It is further ordered*, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to establish and put in force on or before January 15, 1917, upon notice to this Commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in section 6 of the act to regulate commerce, and thereafter to maintain and apply to the transportation of passengers between St. Louis, Mo., and points in Illinois fares, the basis of which per mile, bridge tolls excepted, is not higher than the basis per mile for fares

tion on the part of the state authorities and the carriers severally brought suits against them, in the District Court for the Northern District of Illinois, to enjoin them from interfering, by civil or criminal proceedings, or otherwise, with the establishment and maintenance of such intrastate rates under the Commission's order.

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contemporaneously maintained between Chicago and those same Illinois points.

"*It is further ordered*, That the above-named defendants, according as they participate in the transportation, be, and they are hereby, notified and required to establish and put in force on or before January 15, 1917, upon notice to this Commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in section 6 of the act to regulate commerce, and thereafter to maintain and apply to the transportation of passengers between Keokuk, Iowa, and points in Illinois fares upon a basis not in excess of 2.4 cents per mile, bridge tolls excepted, which basis has been found reasonable in the said report, nor in excess per mile of the fares between points in Illinois directly opposite to Keokuk and the same points by more than a reasonable bridge toll; nor upon a higher basis per mile, bridge tolls excepted, than fares contemporaneously effective between Illinois points intermediate between Keokuk, Iowa, and points in Illinois.

"*It is further ordered*, That the above-named defendants, according as they participate in the transporation, be, and they are hereby, notified and required to establish and put in force on or before January 15, 1917, upon notice to this Commission and to the general public by not less than 30 days' filing and posting in the manner prescribed in section 6 of the act to regulate commerce, and thereafter to maintain and apply to the transportation of passengers between Keokuk, Iowa, and points in Illinois fares, the basis of which per mile, bridge tolls excepted, is not higher than the basis per mile for fares contemporaneously maintained between Chicago and those same Illinois points.

"*It is further ordered*, That said defendants, according as they participate in the transportation, be, and they are hereby, notified and required to cease and desist, on or before January 15, 1917, and thereafter to abstain, from the undue preferences and the undue and unreasonable prejudices and disadvantages found in said report to result from the contemporaneous maintenance between Illinois points of

The suits were consolidated and the present appeals are from decrees dismissing the bills for want of equity and dismissing cross bills of the state authorities for want of jurisdiction.

Mr. Silas H. Strawn, with whom *Mr. Robert Bruce Scott* and *Mr. Andrew P. Humburg* were on the briefs, for the railroad companies.

Mr. Robert Bruce Scott for Illinois Central Railroad Co.

Mr. Sydney R. Prince, *Mr. Edward C. Kramer* and *Mr. Alexander Pope Humphrey* filed a brief for Southern Railway Co. and Mobile & Ohio Railroad Co.

Mr. George T. Buckingham and *Mr. James H. Wilkerson*, Assistant Attorneys General of the State of Illinois, with whom *Mr. Edward J. Brundage*, Attorney General of the State of Illinois, was on the briefs, for State Public Utilities Commission of Illinois *et al.*

Mr. Joseph W. Folk for the Interstate Commerce Commission.

The Solicitor General, for the United States, submitted upon a brief, contending that the court below had no jurisdiction over the United States and the Interstate Commerce Commission.

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passenger fares, which fares, in combination with other fares required or permitted by this order, would produce the discrimination against interstate commerce and the undue preferences in favor of intrastate commerce condemned in the report of the Commission.

"*And it is further ordered*, That this order shall continue in force for a period of not less than two years from the date when it shall take effect."

MR. JUSTICE VAN DEVANTER, after making the foregoing statement, delivered the opinion of the court.

The questions to which attention is first invited relate to the power of the District Court in the Northern District of Illinois to entertain the suits and the cross bills, in view of the jurisdictional provision in the Act of October 22, 1913, c. 32, 38 Stat. 219, that a suit "to enforce, suspend, or set aside, in whole or in part," an order of the Commission relating to transportation and made upon petition may be brought only in the district "wherein is the residence of the party or any of the parties upon whose petition the order was made."

It was objected in the District Court that the suits were brought to enforce the Commission's order and therefore could be entertained only in the Eastern District of Missouri, which embraces the residence of the party upon whose petition the order was made. But the court sustained its jurisdiction, ruling that the suits were not of the nature indicated by the objection.

In common acceptation a suit to enforce an order of the Commission is one which seeks to compel the carrier to whom the order is directed to yield obedience to its command. Nothing in the jurisdictional provision suggests that this is not what is intended, and that it is is shown by the provision in § 16 of the Act to Regulate Commerce, c. 309, 36 Stat. 554, that, if an order respecting transportation be not obeyed by the carrier, the same may be enforced at the suit of the Commission, an injured party, or the United States, by an appropriate writ or process restraining the carrier from further disobedience and enjoing upon it due compliance with the order. A reading of both provisions leaves no room to doubt that the suit to enforce so clearly outlined in one is the suit intended by the other.

But these were not suits of that type. They were begun by the carriers, not against them, and proceeded upon the theory, not that the carriers were in default, but that they were proceeding to obey the order. What was alleged and sought to be enjoined was threatened action on the part of the defendants, the state authorities, whereby obedience on the part of the carriers would be obstructed and made the occasion for subjecting them to divers criminal proceedings, suits for penalities and the like. In other words, the suits were brought to prevent complete obedience by the carriers from being wrongfully obstructed and embarrassed, but not to enforce the order in the sense of the jurisdictional provision. Therefore that provision was not applicable to them. They properly came within the provision in § 1 of the Act of June 18, 1910, c. 309, 36 Stat. 539, repeated in Jud. Code, § 207, which preserves and continues the general jurisdiction of the District Courts over cases and proceedings not therein enumerated.

At this point it will be convenient to dispose of another objection relating to the principal suits, but not turning on the jurisdictional provision. Shortly after the carriers' bills were filed the court, acting upon a motion of the defendants, ruled that the United States and the Commission were necessary parties, ordered that they be made defendants, and directed the issue of process against them. After they were thus brought in, the matter was considered again and the bills were dismissed as to them for want of jurisdiction. The defendants now say that after this dismissal the court did not have before it the requisite parties to enable it to entertain the bills. But the point is not tenable. There was no statute making the United States or the Commission a necessary party to bills of that nature, nor was the relief sought such as to render the presence of either essential under the rules applicable to suits in equity.

It well may be that either or both, if desiring to intervene, would have been permitted to do so, but there is no warrant for thinking that without their presence the bills could not be entertained.

The cross bills assailed the validity of the Commission's order on various grounds and concluded with a prayer that it be set aside and annulled and that the United States and the Commission be enjoined from enforcing it and the carriers from complying with it. Passing the fact that they were presented as *cross* bills, it is apparent that in subject-matter and purpose they were suits to set aside the order. By statute such suits are required to be brought against the United States, Jud. Code, §§ 208, 211; c. 32, 38 Stat. 219–220, and the jurisdictional provision before mentioned permits them to be brought only in designated districts. Here the Eastern District of Missouri was the one designated, the order being one that was made upon the petition of a resident of that district. The United States had consented to be sued there, but not elsewhere, and, being suable only by its consent, could not be sued in a district not within the consent given. See *Finn* v. *United States*, 123 U. S. 227, 232–233; *Schillinger* v. *United States*, 155 U. S. 163, 166. It therefore is certain that the cross bills could not be entertained in the Northern District of Illinois, unless in this regard there be, as is asserted, a valid distinction between a cross bill and an original bill. No doubt there are situations in which a cross bill against an ordinary suitor may be considered and dealt with in virtue of the jurisdiction over the principal suit, even though as an original bill it could not be entertained (see *Denver* v. *New York Trust Co.*, 229 U. S. 123, 135, and cases cited); but it is otherwise where the cross bill is against the United States, for no suit against it can be brought without its consent given by law. Its immunity recognizes no distinction between cross

bills and original bills, or between ancillary suits and original suits, but extends to suits of every class. *United States* v. *McLemore*, 4 How. 286; *Hill* v. *United States*, 9 How. 386; *Reeside* v. *Walker*, 11 How. 272, 290; *DeGroot* v. *United States*, 5 Wall. 419, 431–433; *Carr* v. *United States*, 98 U. S. 433, 437; *Belknap* v. *Schild*, 161 U. S. 10, 16. Thus the cross bills as such had no better standing than they would have had as original bills.

The claim is made that in any event the cross bills should have been retained as to the defendants therein other than the United States. But this is not an admissible view. As before indicated, the United States is made by statute a necessary party to a suit to set aside an order of the Commission, and this means that it is to stand in judgment as representing the public. If the state authorities thought the order should be set aside and wished to test their right to affirmative relief along that line they should have resorted to the court empowered by law to entertain a suit of that nature.

It follows that the District Court rightly disposed of the jurisdictional questions by entertaining the principal suits and declining to entertain the cross bills.

Whether the suits by the carriers were rightly dismissed on the merits is the principal question, and its solution turns on the power of the Commission to deal with discrimination arising out of a disparity in interstate and intrastate rates, and on the scope and effect of the order made.

In their answers the state authorities took the position that in so far as the order purports to authorize or require a removal of the discrimination found to exist by a change in intrastate rates it is in excess of any power that has been or can be conferred on the Commission, and therefore neither relieves the carriers from full compliance with the state rate law nor prevents that law from being fully enforced against them. If

the premise were sound the conclusion doubtless would follow, for where the Commission makes an order which it has no power to make the order is necessarily void, not merely voidable. But that the premise is not sound is settled by the *Shreveport Case* (*Houston, East & West Texas Ry. Co.* v. *United States*) 234 U. S. 342. Upon full consideration it there was held:

1. Under the commerce clause of the Constitution Congress has ample power to prevent the common instrumentalities of interstate and intrastate commerce, such as the railroads, from being used in their intrastate operations in such manner as to affect injuriously traffic which is interstate.

2. Where unjust discrimination against interstate commerce arises out of the relation of intrastate to interstate rates this power may be exerted to remove the discrimination, and this whether the intrastate rates are maintained under a local statute or by the voluntary act of the carrier.

3. In correcting such discrimination Congress is not restricted to an adjustment or reduction of the interstate rates, but may prescribe a reasonable standard to which they shall conform and require the carrier to adjust the intrastate rates in such way as to remove the discrimination; for where the interstate and intrastate transactions of carriers are so related that the effective regulation of one involves control of the other, it is Congress, and not the State, that is entitled to prescribe the dominant rule.

4. It is admissible for Congress to provide for the execution of this power through a subordinate body such as the Interstate Commerce Commission, and this it has done by the Act to Regulate Commerce.

5. Where in the exercise of its delegated authority the Commission not only finds that a disparity in the two classes of rates is resulting in unjust discrimination

against interstate commerce but also determines what are reasonable rates for the interstate traffic, and then directs the removal of the discrimination, the carrier not only is entitled to put in force the interstate rates found reasonable but is free to remove the forbidden discrimination by bringing the intrastate rates to the same level.

Upon further consideration that decision was approved and followed in *American Express Co.* v. *Caldwell*, 244 U. S. 617.

The parties differ widely about the scope of the order. The carriers assert that it covers every intrastate passenger rate in Illinois, is addressed to the removal of discrimination found to be state-wide, and gives ample authority for increasing all rates between points in Illinois from 2 cents to 2.4 cents per mile. On the other hand, the state authorities assert that it is not state-wide and that the extent to which it is intended to affect the state-made rates is so indefinitely and vaguely stated as to make it inoperative and of no effect as to them. Of course, the Commission could adjust the remedy to the evil and make the order as broad as the wrongful discrimination; and not improbably it would intend to go that far and no farther. But the extent of the discrimination found and of the remedy applied must be gathered from the reports and order of the Commission, for they constitute the only authoritative evidence of its action. The reports show that the only discrimination found relates to the passenger traffic between Illinois and two cities outside that State—St. Louis and Keokuk. There is no finding that this traffic extends in appreciable volume to all sections of Illinois. As to some sections its volume may be very large and as to others almost or quite negligible. At best the reports leave the matter uncertain. Obviously this traffic is only a small part of the interstate passenger traffic moving over

the railroads in Illinois, and yet the finding is merely that there was discrimination against this part. Had the Commission regarded the discrimination as state-wide it is but reasonable to believe that it would have said so in its findings. And had it intended to require or authorize a state-wide readjustment of the intrastate rates it doubtless would have given direct expression to that purpose, which easily could have been done in a few lines. But neither in any part nor as a whole does the order plainly manifest such a purpose. In harmony with the reports it deals with the intrastate rates in so far only as they result in discrimination against interstate traffic to and from St. Louis and Keokuk. Its most comprehensive paragraph—the next to the last—declares that the carriers must "abstain from the undue preferences and the undue and unreasonable prejudices and disadvantages found in said report to result from the contemporaneous maintenance between Illinois points of passenger fares, which fares, in combination with other fares required or permitted by this order, would produce the discrimination against interstate commerce and the undue preferences in favor of intrastate commerce condemned in the report of the Commission." But even here the general terms are so far restrained by the reference to the reports as to show that nothing more is intended than to command the removal of the discrimination to which the traffic to and from St. Louis and Keokuk is subjected. Besides, this paragraph evidently proceeds upon the theory that some of the intrastate rates are not affected by the other paragraphs, and ought not to be disturbed save where their use in connection with rates sanctioned by the order will be productive of the discrimination which it is intended to correct.

But while the order shows that it is not intended to require or authorize a readjustment of all the intrastate

rates, the description of those to which it applies is at best indefinite. There may be less uncertainty in some parts of the order than in others, but when each is read in the light of the rest and all in the light of the reports it is apparent that none has a certain or definite field of operation. The uncertainty arises out of a failure to designate with appropriate precision the territory or points to and from which the intrastate rates must or may be readjusted, and this omission accords with the absence from the reports of any finding showing definitely the territory or points where those rates operate prejudicially against the interstate traffic which the order is intended to protect.

To be effective in respect of intrastate rates established and maintained under state authority an order of the Commission of the kind now under consideration must have a definite field of operation and not leave the territory or points to which it applies uncertain. Upon this point we said in *American Express Co.* v. *Caldwell*, *supra*, p. 625:

"Where a proceeding to remove unjust discrimination presents solely the question whether the carrier has improperly exercised its authority to initiate rates, the Commission may legally order, in general terms, the removal of the discrimination shown, leaving upon the carrier the burden of determining also the points to and from which rates must be changed, in order to effect a removal of the discrimination. But where, as here, there is a conflict between the federal and the state authorities, the Commission's order cannot serve as a justification for disregarding a regulation or order issued under state authority, unless, and except so far as, it is definite as to the territory or points to which it applies. For the power of the Commission is dominant only to the extent that the exercise is found by it to be necessary to remove the existing discrimination against interstate traffic."

In construing federal statutes enacted under the power conferred by the commerce clause of the Constitution the rule is that it should never be held that Congress intends to supersede or suspend the exercise of the reserved powers of a State, even where that may be done, unless, and except so far as, its purpose to do so is clearly manifested. *Reid* v. *Colorado*, 187 U. S. 137, 148; *Cummings* v. *Chicago*, 188 U. S. 410, 430; *Savage* v. *Jones*, 225 U. S. 501; *Missouri, Kansas & Texas Ry. Co.* v. *Harris*, 234 U. S. 412, 419. This being true of an act of Congress, it is obvious that an order of a subordinate agency, such as the Commission, should not be given precedence over a state rate statute otherwise valid, unless, and except so far as, it conforms to a high standard of certainty.

We conclude that the uncertainty in this order is such as to render it inoperative and of no effect as to the intrastate rates, established and maintained under a law of the State, and therefore that the suits by the carriers were rightly dismissed on the merits.

Decrees affirmed.

MR. JUSTICE HOLMES took no part in the consideration or decision of this case.